

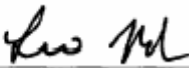


3. In SBC Missouri's prior competitive classification case, the Commission stated that it could only make such an affirmative finding of effective competition based on competent and substantial evidence,<sup>3</sup> and that "regardless of which party bear the burden of proof, absent competent and substantial evidence of effective competition the Commission cannot find that it exists."<sup>4</sup>

4. While it does not have the burden of proof under the statute, SBC Missouri acknowledges that from a practical perspective it has the greatest incentive to provide the Commission with evidence upon which it can make a finding of competitive classification in SBC Missouri's exchanges. Consistent with the identification of issues jointly filed by the parties in this case,<sup>5</sup> SBC Missouri presented substantial and competent evidence sufficient for the Commission to make a finding of competitive classification in SBC Missouri's exchanges for the services at issues in this proceeding.

Respectfully submitted,

SOUTHWESTERN BELL TELEPHONE, L.P.  
D/B/A SBC Missouri

BY   
\_\_\_\_\_  
PAUL G. LANE #27011  
LEO J. BUB #34326  
ROBERT J. GRYZMALA #32454  
MIMI B. MACDONALD #37606

Attorneys for SBC Missouri  
One SBC Center, Room 3520  
St. Louis, Missouri 63101  
314-235-2508 (Telephone)/314-247-0014(Facsimile)  
lb7809@momail.sbc.com

---

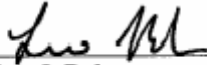
<sup>3</sup> In the Matter of the Investigation of the State of Competition in the Exchanges of Southwestern Bell Telephone Company, Case No. TO-2001-467, Report and Order, issued December 27, 2001, p. 8, ("SBC Missouri First Competitive Classification Order,") (citing State, ex rel. Rice v. PSC, 220 S.W.2d 61, 64 (Mo. 1949).

<sup>4</sup> SBC Missouri First Competitive Classification Order, pp. 8-9.

<sup>5</sup> See, List of Issues, filed by Staff of the Missouri Public Service Commission on behalf of itself and the other parties to the case on January 7, 2005.

**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing document were served to all parties by e-mail on March 17, 2005.



Leo J. Bub

GENERAL COUNSEL  
WILLIAM K. HAAS  
MISSOURI PUBLIC SERVICE COMMISSION  
PO BOX 360  
JEFFERSON CITY, MO 65102

PUBLIC COUNSEL  
MICHAEL F. DANDINO  
OFFICE OF THE PUBLIC COUNSEL  
PO BOX 7800  
JEFFERSON CITY, MO 65102

CARL J. LUMLEY  
LELAND B. CURTIS  
CURTIS OETTING HEINZ GARRETT & SOULE,  
P.C.  
130 S. BEMISTON, SUITE 200  
ST. LOUIS, MO 63105