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ORIGINAL

June 22, 2000

FILED<sup>3</sup>

JUN 22 2000

Missouri Public  
Service Commission

Mr. Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge  
Missouri Public Service Commission  
P.O. Box 360  
Jefferson City, Missouri 65102

Re: Case No. <sup>TO</sup> ~~PA~~-2000-667  
Resale of SWBT Local Plus Service

Dear Mr. Roberts:

Please find enclosed for filing in the above-referenced case an original and eight copies of the Application To Intervene Out Of Time For Good Cause filed on behalf of ALLTEL Communications, Inc. Copies of this filing have been sent this date to counsel for all parties of record. Thank you.

Sincerely,

*Brent Stewart*  
Brent Stewart

CBS/bt

Enclosure

cc: Counsel for all parties of record  
Jack Redfern

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

FILED<sup>3</sup>  
JUN 22 2000

In the Matter of the Investigation into the )  
Effective Availability for Resale of )  
Southwestern Bell Telephone Company's )  
Local Plus Service by Interexchange )  
Companies and Facilities-Based )  
Competitive Local Exchange Companies. )

Case No. TO-2000-667

Missouri Public  
Service Commission

APPLICATION TO INTERVENE  
OUT OF TIME FOR GOOD CAUSE

Comes now ALLTEL Communications, Inc. ("ALLTEL"), by and through counsel,  
and pursuant to 4 CSR 240-2.075 for its Application To Intervene Out Of Time For Good  
Cause respectfully states as follows:

1. ALLTEL is a competitive local exchange telecommunications company duly  
incorporated and existing under the laws of the State of Delaware. ALLTEL received its  
conditional certificate to provide facilities-based basic local telecommunications service in  
those exchanges served by Southwestern Bell Telephone Company ("SWBT"), GTE Midwest  
Incorporated and Sprint Missouri, Inc. d/b/a Sprint on September 2, 1999 in Case No. TA-99-  
298. ALLTEL has filed and received Commission approval of its interconnection agreement  
with SWBT effective June 15, 2000 in Case No. TO-2000-674. On June 12, 2000, ALLTEL  
filed its proposed CLEC tariff in Case No. TA-99-298. Pursuant to 4 CSR 240-2.060(1)(G),  
additional information regarding ALLTEL is contained in the Commission's case file in Case  
No. TA-99-298 and is here incorporated by reference. ALLTEL also has been certificated by  
the Commission to provide intrastate interexchange telecommunications service in Case No.  
TA-99-53, Order issued October 8, 1998. ALLTEL's principle place of business and mailing

address is One Allied Drive, Little Rock, Arkansas 72202, telephone number (501) 905-8159 and fax number (501)905-5679.

2. All communications, notices, pleadings, orders and decisions regarding this matter should be sent to:

Charles Brent Stewart  
Jeffrey A. Keevil  
Stewart & Keevil, L.L.C.  
1001 Cherry Street, Suite 302  
Columbia, Missouri 65201  
(573) 499-0635

Jack Redfern  
Staff Manager-State Govt. Affairs  
ALLTEL Communications  
One Allied Drive  
Little Rock, Arkansas 72202  
(501) 905-8159

3. Pursuant to 4 CSR 240-2.060(1)(K), ALLTEL states that it has no pending action or final unsatisfied judgments or decisions against it from any state or federal agency or court which involve customer service or rates, which action, judgment or decision has occurred within three years of the date of this Application. Pursuant to 4 CSR 240-2.060(1)(L), no annual report or assessment fees are overdue.

4. On April 6, 2000, the Commission in predecessor Case No. TT-2000-258 issued its Report and Order wherein, *inter alia*, it indicated that it would open a case on its own motion to direct Staff to investigate the effective availability for resale of SWBT's Local Plus service by IXC's and CLEC's. In that Report and Order, the Commission approved SWBT's promotional tariff but deferred to some future time its consideration of *facilities-based* CLEC provisioning of Local Plus by stating:

"....there was some testimony presented indicating that a CLEC wishing to provision Local Plus through UNEs might encounter difficulties...SWBT was unable to describe exactly what arrangements would be made to permit the offering of such services

because no CLEC has sought to provision Local Plus in such a manner. Theoretical difficulties that might be encountered by a hypothetical competitor at some time in the future are not a reasonable basis for rejecting SWBT's promotional tariff".

5. On April 20, 2000 the Commission established this case, Case No. TO-2000-667, and issued its Order Making Southwestern Bell Telephone Company A Party And Directing Notice. According to that Order, the Commission established "this case to investigate the effective availability for resale of...SWBT's...Local Plus service by interexchange carriers and facilities-based competitive local exchange companies". Said Order set a twenty (20) day intervention deadline of May 10, 2000. The Commission subsequently granted intervention requests by numerous parties, although none of these parties were facilities-based CLECs.

6. Pursuant to 4 CSR 240-2.075(5), the Commission should grant ALLTEL's intervention for good cause even though the May 10, 2000 intervention deadline has passed. First, if granted intervention, ALLTEL will be the only facilities-based CLEC in this proceeding who currently is seeking to provide and resell SWBT's Local Plus service. Allowing at least one such CLEC to participate in this case is consistent with the Commission's stated intent of examining the effective availability for resale of SWBT's Local Plus service by facilities-based competitive local exchange companies. No party will be prejudiced by permitting ALLTEL's intervention since the first prehearing conference in this case has yet to be held and since a procedural schedule has not yet been established.

Second, at the time the Report and Order was issued in predecessor Case No. TT-2000-258 in April of this year, and then up to the May 10, 2000 intervention deadline set for this case, ALLTEL's interest in this case as a facilities-based CLEC was, to paraphrase the

Commission, arguably somewhat "hypothetical" since ALLTEL was not, at that time, in a position to actually begin offering service; ALLTEL did not have an approved interconnection agreement with SWBT nor had ALLTEL filed its proposed CLEC tariff. However, ALLTEL just this month first received approval of its interconnection agreement with SWBT (effective June 15, 2000) and only on June 12, 2000 first filed its proposed CLEC tariff, which is now currently pending. Only now has ALLTEL's interest in this proceeding evolved from "hypothetical/theoretical" to immediate and real.

Finally, due to a possible attorney conflict, ALLTEL could not employ for purposes of this case its previous Commission counsel and was required to seek and retain different counsel. Unfortunately, this took some time and simply could not be accomplished until after the 20-day intervention deadline had passed in this case.

7. ALLTEL's interest in this proceeding is that ALLTEL, a facilities-based CLEC, seeks to resell SWBT's Local Plus service; ALLTEL also is an interexchange carrier who competes with SWBT in the intraLATA toll market. In either case, ALLTEL agrees with the position stated by intervenor AT&T Communications of the Southwest, Inc. ("AT&T") that SWBT's Local Plus service is not effectively available for resale by either facilities-based CLECs or IXC's. ALLTEL generally concurs with the other allegations contained in AT&T's Application To Intervene in this case, especially as regards the inadequacy of SWBT's Operational Support Systems for SWBT's wholesale customers where the resale of Local Plus is concerned and the unfair competitive advantage currently enjoyed by SWBT due to its ability to avoid imputation of access charges in its own pricing of Local Plus.

8. As a facilities-based CLEC competitor of SWBT in both the local and intraLATA

toll market, ALLTEL's interest in this proceeding is just as clear as that of intervenor AT&T and is different from that of the general public and even other non-facilities-based CLECs. No other party to this case can adequately represent ALLTEL's peculiar interests. The Commission's ultimate decision in this proceeding will directly affect SWBT's resale requirements of Local Plus to SWBT's competitors and will thereby have very real competitive consequences for ALLTEL. ALLTEL's interests easily could be adversely affected by the Commission's ultimate decision in this proceeding, and as such, ALLTEL should be permitted to intervene and fully participate to protect its interests. In addition, ALLTEL's full participation in this proceeding will assist the Commission in its fact finding inquiry and serve the overall public interest by helping develop a complete and accurate evidentiary record upon which the Commission can base its decision.

WHEREFORE, for all the reasons stated hereinabove, ALLTEL Communications, Inc. respectfully moves the Commission to grant ALLTEL's Application To Intervene Out Of Time For Good Cause in this proceeding.

Respectfully submitted,



Charles Brent Stewart, MoBar#34885

Jeffrey A. Keevil, MoBar# 33825

STEWART & KEEVIL, L.L.C.

1001 Cherry Street, Suite 302

Columbia, Missouri 65201

ATTORNEYS FOR ALLTEL  
COMMUNICATIONS, INC.

## CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing was sent this date to counsel for all parties of record in Case No. TO-2000-667 by placing same in the U.S. Mail, first class postage prepaid, or by hand-delivery, this 22<sup>nd</sup> day of June, 2000.

Charles Brent Stewart

## VERIFICATION

STATE OF MISSOURI     )  
                                      )SS  
COUNTY OF BOONE     )

I, Charles Brent Stewart, verify that: I am an attorney licensed to practice in the State of Missouri, MoBar #34885; that my law firm, Stewart & Keevil, L.L.C. has been retained by ALLTEL Communications, Inc. to represent it in Missouri Public Service Commission Case No. TO-2000-667 and that we have been duly authorized to file the foregoing Application For Intervention on our client's behalf; and that the statements contained in this Application are true to the best of my knowledge, information and belief.

Charles Brent Stewart  
Charles Brent Stewart, MoBar #34885

Subscribed and sworn to before me, a notary public, this 22 day of June, 2000.

Shawna M. Adams  
Notary Public

My commission expires:

[seal]

Shawna M. Adams  
Notary Public - Notary Seal  
STATE OF MISSOURI  
Boone County  
My Commission Expires: Jan. 13, 2004

