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MEMORANDUM

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TO: Docket Control

FROM: Ernest G. Johnson
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EA for EGJ

AZ CORP COMMISSION
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THRU: Wilfred Shand, Jr.
Manager, Telecommunications & Energy Section
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Arizona Corporation Commission
DOCKETED

Matthew Rowell
Chief, Telecommunications & Energy Section
Utilities Division

MR

MAR 02 2005

DATE: March 2, 2005

DOCKETED BY *KV*

RE: **ADDENDUM TO STAFF REPORT FOR SOUTHWESTERN BELL COMMUNICATIONS SERVICES, INC. APPLICATION FOR A CERTIFICATE OF CONVENIENCE AND NECESSITY TO PROVIDE FACILITIES-BASED INTEREXCHANGE SERVICES (DOCKET NO. T-03346A-04-0413)**

On June 3, 2004, Southwestern Bell Communications Services, Inc. ("SBCS") filed an application with the Commission requesting the authority to provide facilities-based interexchange service in the State of Arizona. On October 29, 2004, staff filed a Staff Report recommending approval of SBCS' application.

The following replaces the first paragraph of Section 3 at page 3 of the Staff Report:

The Applicant indicated that it has not had an application for service denied or revoked in any State. Consumer Services reports no complaint history within Arizona. The Applicant provided details concerning complaint proceedings in the States of Texas, Kansas and Oklahoma and the Federal Communications Commission ("FCC").

In the state of Texas, AT&T filed a complaint with the Texas Public Utility Commission ("TPUC") in September of 2000. This complaint alleged that SBCS and its affiliate, Southwestern Bell Telephone Company, had engaged in predatory pricing which limited AT&T's ability to compete. In December of 2001, AT&T amended its

complaint and withdrew its predatory pricing claim. On September 17, 2002, this complaint was resolved as the Court of Appeals for the Third District of Texas affirmed an earlier judgment indicating that the TPUC lacked the statutory authority to authorize or direct any hearing regarding SBCS in the TPUC complaint hearing initiated by AT&T.

In December of 2001, customers of SBCS' Texas Unlimited Plan were transferred to the SBCS' Texas Statewide Calling Plan. Upon this transfer, the TPUC received several calls from customers regarding the discontinuance of the Texas Unlimited Plan. Although SBCS indicated that it did provide customers with notice prior to the transfer, the TPUC found SBCS "at fault" in one of the customer complaints. After discussing this matter with TPUC Staff, SBCS agreed to extend the benefits of the Texas Statewide Calling Plan to the date of March 31, 2002.

In December of 2002, the TPUC was served with two Notices of Violation and Intent alleging that SBCS failed to file responses to 17 customer complaints within 21 days. SBCS indicated that it had responded to all 17 complaints and is working with the TPUC to resolve this matter. To date, the TPUC has withdrawn five of its allegations.

In the State of Kansas, AT&T filed an Emergency Motion for Suspension of specific Tariff Provisions as it alleged that SBCS was taking part in predictive and anticompetitive pricing practices on March of 2001. In a separate docket, the Kansas Corporation Commission initiated an investigation addressing the impact of access charge reductions, the resulting effect of on access rates and revenues and the Kansas Universal Service Fund. As a means of settling the issues of this investigation, several parties entered into a stipulation which included, but wasn't limited to AT&T withdrawing its complaint against SBCS. On October 1, 2001, AT&T withdrew its complaint on this matter.

In June of 2002, the Oklahoma Corporation Commission ("OCC") filed complaints against seven long distance carriers, including SBCS, concerning alleged unauthorized carrier transfers ("Slamming"). SBCS indicated that this matter was settled in January of 2003.

In March of 2003, the FCC launched an investigation to determine whether SBCS violated Section 271 of the Telecommunication Act by providing, marketing and/or selling interLATA telecommunications services in non-authorized states. The Enforcement Bureau of the FCC and SBCS negotiated a consent decree for the purpose of terminating the informal investigation wherein SBCS

made no admissions of violations or non-compliance, made a voluntary payment to the United States Treasury in the amount of \$1.35 million and agreed to continue with corrective measures including, but not limited to additional staff training, upgrades to SBCS' ordering system, and the requirement of additional information on reports.

EGJ/AJL/

Originator: Adam Lebrecht

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DOCKET NO. T-03346A-04-0413

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