

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

In the Matter of Southwestern Bell Telephone)
Company, d/b/a SBC Missouri's Proposed)
Revised Tariff Sheet Intended to Increase by)
Eight Percent the Rates for Line Status)
Verification and Busy Line Interrupt as)
Authorized by Section 392.245, RSMo, the)
Price Cap Statute)

Case No. IT-2004-0015
Tariff No. JI-2003-2141

MOTION TO CLOSE CASE

COMES NOW the Staff of the Missouri Public Service Commission and for its motion states:

1. The Commission's Report and Order rejected a proposed tariff sheet filed by Southwestern Bell Telephone Company d/b/a SBC Missouri intended to increase the rates by 8% and 7.8%, respectively, for two nonbasic telecommunications services: Line Status Verification and Busy Line Interrupt.¹

2. SBC Missouri sought judicial review. The Circuit Court's Judgment in Case No. 03CV326406 affirmed the Commission's order. SBC Missouri appealed to the Court of Appeals. The Western District's Opinion in Case No. WD64502 reversed the Commission's order. The Western District held that the Commission was not authorized to conduct a just-and-reasonable analysis of the rate increases. *State ex rel. Southwestern Bell Telephone, L.P. v. Missouri Public Service Commission*, 173 S.W. 3d 327 (Mo. App. W.D. 2005)

3. When SBC Missouri filed the proposed tariff sheet in 2003, section 392.245.11 RSMo imposed an eight percent cap as the maximum allowable annual price increase for a price

¹ Southwestern Bell Telephone Company now does business as AT&T Missouri.

cap company's nonbasic telecommunications services. While this case was progressing through the courts, the Legislature amended section 392.245.11 by reducing the maximum allowable annual price increase for a price cap regulated company's nonbasic telecommunications services from eight percent to five percent. S.B. 237 (2005). Thus, the issue on remand became whether the eight percent cap or the five percent cap applied to the proposed rate increases.

4. H.B. 1779 (2008) further amended section 392.245.11 by exempting a price cap company's nonbasic telecommunications services from limitations on maximum allowable prices. Therefore, the issue on remand is now moot.

WHEREFORE, the Staff requests the Commission to close this case.

Respectfully submitted,

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Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 7th day of November 2008.

/s/ William K. Haas