

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 16th day of November, 2006.

In the Matter of Southwestern Bell Telephone, L.P. d/b/a ) **Case No. IT-2007-0187**  
AT&T Missouri's Revision to its General Exchange Tariff, ) Tariff No. JI-2007-0260  
PSC Mo. No. 35, Regarding Provision of 811 Service )

**ORDER GRANTING INTERVENTION, SUSPENDING TARIFF,  
DIRECTING NOTICE, SETTING PREHEARING CONFERENCE AND  
SETTING EVIDENTIARY HEARING**

Issue Date: November 16, 2006

Effective Date: November 16, 2006

On October 19, 2006, Southwestern Bell Telephone, L.P. d/b/a AT&T Missouri ("AT&T") filed its proposal to revise its General Exchange Tariff by adding Section 59 containing its intent to offer 811 Service pursuant to the Federal Communications Commission's ("FCC") March 14, 2005 Sixth Report and Order in the Matter of the Use of N11 Codes and Other Abbreviated Dialing Arrangements, 20 FCC Rcd 5539 (2005) ("Order"). The provision of 811 Service utilizes the abbreviated dialing code reserved by the FCC to assist excavators in notifying underground facility operators of upcoming excavation activities. The tariff AT&T filed bears an effective date of November 18.

On November 13, Missouri One Call System, Inc. ("MOCS") filed a request to intervene and a motion to suspend the tariff. MOCS is a "notification center," as defined in Section 319.015(4) and is the only center that provides statewide notification to participant owners and operators of underground facilities of information concerning intended

excavation activities. Contractors, utility companies, municipalities or any other person can notify all participant owners and operators of underground facilities of their intent to excavate by making a single toll-free call to MOCS at 1-800-DIG-RITE. Once a call is placed to MOCS, it notifies each participant and that entity dispatches a crew to mark the location of its underground facility prior to the excavation.

MOCS contends that AT&T's tariff, respecting the use and availability of 811 in Missouri, is unjust and unreasonable and inconsistent with the FCC's Order reserving the 811 abbreviated dialing code. MOCS claims that the Transportation Equity Act, the Pipeline Safety Act and the FCC's Order require call centers to provide a telephone number to the telecommunications providers so that the provider may forward calls received on 811 to the call center, not that the call centers have to pay for the forwarding of such calls. MOCS maintains that AT&T's tariff would implement a nonrecurring set-up charge of \$235.12 per host or stand alone switch, costing it approximately \$50,000.

MOCS, being the only one-call notification center operating in Missouri, asserts that it has a direct interest in the outcome of this matter that is different from that of the general public. MOCS states that it is opposed to the tariff, requests intervention, and requests a hearing in this matter to determine the reasonableness of AT&T's tariff.

On November 14, AT&T responded to MOCS' motion. AT&T maintains that MOCS' basis for opposition to its tariff is not supported by any citation to the Transportation Equity Act, the Pipeline Safety Act or the FCC's Order. AT&T contends that the charge proposed in its tariff does not exceed its true costs incurred to implement the FCC's Order and that Congress did not intend for telecommunications companies offering 811 Service to shoulder the costs of implementation.

The Commission has reviewed the proposed tariff and the parties' filings. The Commission finds that MOCS' request to intervene and its motion to suspend the tariff should be granted. The Commission will issue notice and set an intervention schedule. The Commission will require that its Data Center mail a copy of this notice to all certificated incumbent local exchange carriers and all competitive local exchange carriers in the state of Missouri.

The Commission shall also set an expedited hearing schedule. The evidentiary hearing shall be live, without prefiled testimony. The Commission finds that the following conditions should be applied:

(A) The parties shall agree upon and the Staff shall file a list of the issues to be heard, the witnesses to appear on each day of the hearing and the order in which they will be called, and the order of cross-examination for each witness. Any issue not contained in this list of issues will be viewed as uncontested and not requiring resolution by the Commission.

(B) Each party shall file a statement of its position on each disputed issue. Such statement shall be simple and concise, and may not contain argument about why the party believes its position to be the correct one.

(C) The Commission will allow one round of post-hearing briefs.

(D) All pleadings, briefs, and amendments shall be filed in accordance with Commission Rule 4 CSR 240-2.080. Briefs shall follow the same list of issues as filed in the case and must set forth and cite the proper portions of the record concerning the remaining unresolved issues that are to be decided by the Commission.

(E) All parties are required to bring an adequate number of copies of exhibits that they intend to offer into evidence at the hearing. If an exhibit has not been prefiled, the party offering it should bring, in addition to the copy for the court reporter, copies for the five Commissioners, the Presiding Judge, and all counsel.

(F) Each party may prepare and file proposed findings of fact and conclusions of law, including citations to testimony and other evidence, to be filed during the post-hearing briefing schedule.

**IT IS ORDERED THAT:**

1. Missouri One Call System, Inc.'s request to intervene is granted.
2. Missouri One Call System, Inc.'s motion to suspend Southwestern Bell Telephone, L.P. d/b/a AT&T Missouri's tariff filed on November 13, 2006 is granted and the tariff will be suspended.
3. The proposed tariff sheets submitted on October 19, 2006, by Southwestern Bell Telephone, L.P. d/b/a AT&T Missouri, and assigned Tariff No. JI-2007-0260, and subsequently docketed as Case No. IT-2007-0187, are suspended for a period of 60 days beyond their proposed effective date of November 18, 2006 to January 17, 2007, or until otherwise ordered by this Commission. The tariff sheets suspended are:

**P.S.C. Mo. – No 35**  
General Exchange Tariff  
Section 59  
Original Sheet 1 through Original Sheet 3

4. The Commission's Data Center shall serve notice as set out in the body of this order.
5. Any party wishing to intervene or request a hearing shall do so by filing a pleading no later than November 30, 2006, with:

Secretary  
Missouri Public Service Commission  
Post Office Box 360  
Jefferson City, Missouri 65102

and serve a copy on:

Robert J. Gryzmala  
One AT&T Center, Room 3516  
St. Louis, Missouri 63101

and

Mark W. Comley  
Newman, Comley & Ruth, P.C.  
Post Office Box 537  
Jefferson City, Missouri 65102

and

Office of the Public Counsel  
200 Madison Street, Suite 650  
Post Office Box 2230  
Jefferson City, Missouri 65102

and

General Counsel  
Missouri Public Service Commission  
200 Madison Street  
Post Office Box 360  
Jefferson City, Missouri 65102

6. The parties shall appear at a prehearing conference to be held on December 5, 2006, beginning at 10:00 a.m. The prehearing conference will be held in Room 305 at the Commission's offices in the Governor Office Building, 200 Madison Street, Jefferson City, Missouri, a building that meets the accessibility standards required by the Americans with Disabilities Act. Any person needing additional accommodations to participate in this prehearing conference should call the Public Service Commission's Hotline at 1-800-392-4211 or dial Relay Missouri at 711 prior to the conference.

7. An evidentiary hearing in this matter shall be set for December 21, 2006.
8. The following procedural schedule is established:

<b>Issues List, Order of Witnesses, and Order of Cross</b>	-	<b>December 8, 2006</b>
<b>Position Statements</b>	-	<b>December 15, 2006</b>
<b>Hearing</b>	-	<b>December 21, 2006, beginning at 8:30 a.m.</b>

9. The hearing will be held in the offices of the Missouri Public Service Commission at the Governor Office Building, Room 305, 200 Madison Street, Jefferson City, Missouri. This hearing will be held in a building that meets accessibility standards required by the Americans with Disabilities Act. If you need additional accommodations to participate in this hearing, please call the Public Service Commission's Hotline at 1-800-392-4211 (voice) or Relay Missouri at 711 before the hearing.

10. This order shall become effective on November 16, 2006.

**BY THE COMMISSION**



Colleen M. Dale  
Secretary

( S E A L )

Davis, Chm., Murray, Gaw, Clayton and Appling, CC., concur

Stearley, Regulatory Law Judge