

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

FILED⁴
JUL 17 2006
Missouri Public
Service Commission

In the Matter of the Tariff of Southwestern Bell)
Telephone, L.P., d/b/a SBC Missouri, repricing)
Residential services in certain exchanges designated)
as competitive pursuant to Section 392.245.6,)
RSMo 2000 (as amended 2005))

Case No. _____

Tariff File No. JI-2007-0011

**OFFICE OF THE PUBLIC COUNSEL'S OBJECTIONS TO RATE
INCREASES IN BASIC SERVICES FOR RESIDENTIAL CUSTOMERS**

The Office of the Public Counsel states to the Missouri Public Service Commission that it objects to this tariff because the increases in basic rates for residential services in exchanges designated as competitive under Section 392.245.6, RSMo 2000 (as amended 2005), are inconsistent with the often promised benefits of competition of lower prices, better service, and more choices for consumers. This tariff is inconsistent with the stated purpose of Missouri's telecommunications in Chapter 392, RSMo, including Section 392.245, RSMo in that it does not ensure that customers pay only reasonable charges for telecommunications service (Section 392.185 (4) and does not allow full and fair competition to function as a substitute for regulation when consistent with the protection of ratepayers and otherwise consistent with the public interest Section 392.185 (6), RSMo.

**RESIDENTIAL RATEPAYERS NOT PROTECTED
PUBLIC INTEREST NOT SERVED**

It is difficult to find that this tariff increasing rates for residential basic services is consistent with the protection of the ratepayers and consistent with the public interest. Where do residential customers turn if these prices are deemed unreasonable, excessive,

unfair, or not affordable by these customers? AT&T will no doubt reply, "Cut the cord and go wireless," or "Vonage can supply Voip." or "Cable TV is our biggest competitor." Each of these alternatives do not provide a reasonable substitute for wireline service with the same scope of services, same minimum investment for service (the existing phone as compared to a wireless phone, or a computer, a modem, or cable tv service) and same consumer protections for billing, collection, and disconnection, adequacy and quality of service, complaint and dispute resolution, and privacy rights under PSC regulations and state telecommunications. How is the public interest served by these rate increases?

The answer is that the residential ratepayer will not be protected by competition from these arbitrary increases and the public interest is not served.

Section 392.200.4(2), RSMo, declares that "it is the intent of this act to bring the benefits of competition to all customers [.]". See, In the Matter of the Access Rates to be Charged by Competitive Local Exchange Telecommunications Companies in the State of Missouri, Case No. TO-99-596 (June 1, 2000)

Public Counsel suggests that this tariff proposes a large number of increased rates for residential with few price reductions. In addition to promoting reasonable prices and the protection of ratepayers, Section 392.185 states that the purpose of the chapter is to "permit flexible regulation of competitive telecommunications companies and competitive telecommunications services [.]". Section 392.185(5), RSMo. The proposed increases raise serious questions. Why are only residential customers who have few real and meaningful choices for residential targeted for increases while the highly sought commercial and business customers that have more real options do not see anything close to this magnitude, if any, increases.

In the context of the recent competitive designation made by the PSC under Section 392.245 RSMo, AT&T claim that it has gone too long without raising these prices has a hollow ring after it claimed that all its residential services in every one of these exchanges has competition. So soon after the reclassification, and contrary to its repeated denial of any plans to increase these basic rates, AT&T feels compelled to increase prices as its response to this competition. Why after the Commission has recognized the competitive status of these services does it feel compelled to increase its rates in an effort to win customers from its competitors? Why does AT&T feel compelled to increase prices under competition rather than use its ability to lower prices to meet competition?

The proposed rate increases are inconsistent with the intent and purpose of the Federal Telecommunications Act of 1996 and S.B. 507 that promises benefits to consumers through competition. Competition is supposed to generate lower consumer prices. The competitive classification was designed to give AT&T flexibility to meet competition. However, the increased prices proposed in this tariff demonstrates that the evidence submitted to show competition for those services was unreliable as a true measure of competition, that the findings of competition based on this evidence and criteria does not reflect competition, and this criteria did not produce the expected restraint on prices.

No matter what the cause, it indicates a major deviation from the expectations Congress and the General Assembly had when the legislation was enacted. This suggests that it may be time for the Commission to take a look at the continued regulation of these services under competitive classification.

**WHAT DID AT&T TELL THE COMMISSION IN HEARINGS
REGARDING COMPETITIVE CLASSIFICATION?**

The text of the transcript of hearings concerning competition and AT&T (then SBC's) plans after competitive classification speaks for itself:

2 PUBLIC SERVICE COMMISSION

6 TRANSCRIPT OF PROCEEDINGS

7 Hearing

8 February 2, 2005

Jefferson City, Missouri

9 Volume 5

10

11

12 In the Matter of the Second)

Investigation into the State of)

13 Competition in the Exchanges of) Case No. TO-2005-0035

Southwestern Bell Telephone, L.P.)

14 d/b/a SBC Missouri)

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Commissioner Applling questions to Craig Unruh (p. 561)

Q. If this Commission gave you competitive

9 classification, have you-all given any thoughts or have

10 you talked about it within SBC how this is going to affect

11 your consumer? Is that going to raise the costs, I guess?

12 **A. I don't believe it will. The marketplace**

13 **isn't going to allow any significant price increases on**

14 **consumers. If we were to mistakenly try to raise prices**

15 **to unreasonable levels, those customers are going to**

16 **exercise their right to choose another provider, so**

17 **obviously we would lose in that environment. So that's**

18 **not something -- that's not something we intend to do.**

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**Commissioner Gaw questions to Elizabeth Stoia, SBC Operations, Inc.
Director -- Consumer Marketing. San Antonio, (pp.693-5)**

Q. You would be pricing all of your rates --

3 you already told me that you believe that it cost -- that

4 you're under cost on local basic?

5 A. Uh-huh.

6 Q. So would you bring all of your rates down

7 to the lowest cost, even knowing that?

8 A. You know, it's so hard for me to answer
9 that question. I wish I could answer it, but I haven't
10 done a financial analysis. And for me to say something
11 like that under oath and then, you know --
12 Q. My problem is that I'm trying to understand
13 what's likely to occur here, because -- because one of my
14 obligations is to ensure that this competition that's out
15 there is going to act as a surrogate for regulation under
16 the statute, as I understand it.
17 A. Uh-huh.
18 Q. Usually things are worded just the
19 opposite, but in the Missouri statutes it's worded that
20 way. And then I've got to look at public interest issues
21 under that section as well, I think. So I'm trying to
22 understand what the impact to those consumers might be,
23 and you're not helping me right now.
24 A. I could tell you --

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25 Q. As to what Bell's intention is if there is
1 competitive status declared for residential.
2 A. I can tell you that I haven't done the
3 financial analysis to answer that question in particular,
4 but I can tell you a couple things.
5 The first one is, the last thing that I'm
6 going to do is do something that would cause my customers
7 to leave SBC and go to another provider, whether it's a
8 CLEC, voice over IP or wireless. I can guarantee you
9 that. I'm going to do the appropriate financial analysis.
10 I'm going to do the market analysis. I'm going to talk to
11 my customers and see what it is that they want. I'm not
12 going to do anything that's going to affect us losing more
13 access lines.

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14 Q. Now, when you say you're not going to do
15 anything to cause them to leave, does that mean you're --
16 is that the same thing as saying you're not going to do
17 anything to want to cause them to leave or that you're not
18 going to do anything that would allow them to go to
19 another provider, if there was one there?
20 A. I don't think I have -- when you say allow
21 them, I can't control if they decide to -- what do you
22 mean by allow them?
23 Q. My point is, what if they don't have much
24 other choice but to be your customer?

25 A. You mean because the competitors have
1 priced their basic access line rates at such a high level
2 or --

1 think that we're doing the consumer a disservice by not
2 allowing everybody to compete on an even playing field. I
3 understand that even with the price cap, if it is removed,
4 we're still not going to be on the same playing field, but
5 I think we're doing the customer a disservice by not
6 allowing us to have the opportunity to compete and think
7 like our competitors.

8 Q. Do you have another reason besides the two
9 that you gave me for believing that going to competitive
10 classification is a -- is something that would be a
11 positive thing?

12 A. I think it would be positive for customers.
13 for consumers.

14 Q. Be more specific for me, though. I mean,
15 that opinion is -- is a nice marketing tool, but help me
16 to understand specifically how you would -- you believe
17 that would take place.

18 A. Well, it's back to the first two reasons I
19 gave you.

20 Q. Okay. That's all I'm trying to do is make
21 sure -- I want to make sure I've explored the universe of
22 your rationale for why we should -- why it would be better
23 from a public interest standpoint to move to a competitive
24 classification.

Q. Yes. Will my basic local rates stay the
9 same, go down or go up in your estimation?

10 A. I haven't done the business case. I
11 haven't done the analysis. I haven't talked to the
12 customers. I don't -- I can tell you we're not going to
13 do something that's going to cause customers to leave us.

14 Q. Has anyone in your company done that
15 analysis?

16 A. Not yet. We don't have competitive
17 classification.

18 Q. So before you get competitive
19 classification, no one's spending any time determining
20 what would happen if you got it?

21 A. We haven't done any of that.

22 Q. No one in the company has done any analysis
23 on what would happen in Missouri if you got competitive
24 classification from this Commission?

25 A. I haven't done any focus groups. I haven't done any financial analysis. I haven't done any of that.

2 Q. And I'm not asking specifically whether you
3 have. Your answer was that the company hasn't, right?

4 A. Not to my knowledge.

5 Q. All right. Well, would it have occurred
6 without your knowledge?

7 A. I doubt it.

(p. 694-695)

Note: This case (TO-2005-0035) was tried under the prior provisions of Sec. 392.245, RSMo, that first required a finding of "effective competition" for a specific service in a specific exchange before the PSC classified that service competitive.

COMPETITION IN MISSOURI: REAL OR AN ILLUSION

Competition as it has been defined in Missouri has not provided the checks and balances for prices that the General Assembly anticipated. It may not protect consumers either in the short or long run.


These rate increases show a serious failure of the competitive system to protect consumers just as the Missouri embarks on the so-called "relaxed" and reduced regulatory oversight that accompanies competitive classification. It now seems that AT&T sees the competitive classification as the green light to raise residential rates unfettered by any meaningful review and regulatory oversight and for the protection of ratepayers and the advancement of the public interest. And there is little, if anything, under the current law to balance the ratepayers' interests with AT&T's interest.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

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