

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

In the Matter of McLeodUSA)	
Telecommunications Service, Inc.'s Tariff)	Case No. _____
Filing to Increase its Missouri Intrastate)	Tariff No. JC-2006-0789
Access Rates.)	

**AT&T MISSOURI'S MOTION TO
SUSPEND AND INVESTIGATE TARIFF**

AT&T Communications of the Southwest, Inc. ("AT&T-C") and AT&T Missouri¹ (collectively, the "AT&T Companies") respectfully request the Missouri Public Service Commission ("Commission") to suspend and investigate a tariff filed by McLeod Telecommunications Services, Inc. ("McLeod") to increase its Missouri intrastate switched access rates. These new rates appear to be well in excess of the rate caps established for McLeod by the Commission (as well as other CLECs offering service in the state) and should not be permitted to go into effect.

1. AT&T-C is a Delaware corporation, duly authorized to conduct business in Missouri with its principal Missouri office located at 2121 East 63rd Street, Kansas City, MO 64130. AT&T-C is an "interexchange telecommunications company" and a "public utility," and is duly authorized to provide "telecommunications service" within the State of Missouri as each of those phrases is defined in Section 386.020 RSMo (2000).

2. AT&T Missouri is a limited partnership duly authorized to conduct business in Missouri with its principal Missouri office located at One AT&T Center, 35th Floor, St. Louis, Missouri 63101. AT&T Missouri is a "local exchange telecommunications company" and a "public utility," and is duly authorized to provide "telecommunications service" within the State of Missouri as each of those phrases is defined in Section 386.020 RSMo (2000).

¹ Southwestern Bell Telephone, L.P., d/b/a AT&T Missouri will be referred to in this pleading as "AT&T Missouri." It previously conducted business as "SBC Missouri."

3. All correspondence, pleadings, orders, decisions and communications regarding this proceeding should be sent to:

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4. On April 17, 2006, McLeod filed a new Missouri Intrastate Access Service Tariff which, among other things, significantly increases its tariffed intrastate switched access service rates.²

5. In order to obtain a grant of competitive classification from the Commission for itself and all of its services, McLeod, like all other CLECs, agreed that its certificate of service authority and competitive classification would be conditioned on capping its intrastate switched access rates at the lowest switched access rates of the large incumbent LEC within the service area McLeod seeks to operate:

The parties have agreed that McLeodUSA shall be classified as a competitive telecommunications company. The parties have also agreed that McLeodUSA's switched exchange access services may be classified as a competitive service, conditioned upon certain limitations on McLeodUSA's ability to charge for its access services. McLeodUSA has agreed that, unless otherwise ordered by the Commission, its originating and terminating access rates will be no greater than the lowest Commission-approved corresponding access rates in effect at the date of certification for the large incumbent LECs within those service areas in which McLeodUSA seeks to operate. The parties have agreed that the grant of service authority and competitive classification to McLeodUSA shall be expressly conditioned on the continued applicability of Section 392.200, RSMo 1996, and on the requirement that any increase in switched access services rates above the maximum switched access service rates set forth in the agreement must be cost-

² McLeodUSA Telecommunications Services, Inc. Missouri Intrastate Access Services Tariff, PSC Mo.-No. 6 replacing McLeodUSA Telecommunications Services, Inc. PSC Mo.-No. 3 in its entirety, filed April 17, 2006.

justified pursuant to Sections 392.220, RSMo Supp. 1996 and 392.230, rather than Sections 392.500 and 392.510.³

6. The Commission in Case No. TO-99-596 reexamined the appropriateness of capping CLEC intrastate switched access rates, which for most CLECs had been created in stipulations between the parties in individual certification cases and adopted by the Commission as a condition of certification and as a condition of competitive classification and a waiver of certain statutory provisions and Commission regulations. In its Report and Order concluding that proceeding, the Commission determined that an access rate cap remained appropriate:

Given the locational monopoly enjoyed by LECs in the present state of the industry, the general absence of alternative routes by which IXCs can complete calls, and the experience of jurisdictions where no cap on access rates has been imposed, the Commission concludes that a cap on exchange access rates is reasonable and necessary in order for the service to be classified as a competitive service and for the Commission to suspend or modify the application of its rules or certain statutory provisions. Section 392.361.6 provides that the Commission “may require a telecommunications company to comply with any conditions reasonably made necessary to protect the public interest by the suspension of the statutory requirement.” The Commission further concludes that a cap on exchange access rates is reasonably necessary to protect the public interest and is consistent with the purposes and provisions of Chapter 392, RSMo:

The provisions of this chapter shall be construed to:

- (4) Ensure that customers pay only reasonable charges for telecommunications service;

- (6) 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[.]⁴

7. The Commission in Case No. TO-99-596 also reexamined the level of the CLEC access rate cap and determined that it should be set at the access rates of the directly competing ILEC:

³ In the Matter of the Application of McLeodUSA Telecommunications Services, Inc. for a Certificate of Service Authority to Provide Basic Local Telecommunications Service and Local Exchange Telecommunications in the State of Missouri, Case No. TA-98-288, Order Granting Certificate of Service Authority, issued May 19, 1998 at pp. 6-7.

⁴ 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, Report and Order, issued June 1, 2001 at pp. 22-23.

. . . the Commission must reject the suggestion of some of the parties that CLECs be permitted to charge 20 to 50 percent more for access than the directly competing ILEC in order to stimulate the development of competition in the basic local services market. That could constitute an unreasonable disadvantage to the ILEC and, in a regime where ILEC access rates may already be higher than cost, would subject customers to paying more than reasonable charges for telecommunications service, in violation of Sections 392.185(4) and 392.200.3 RSMo 1999. Consequently, the Commission concludes that the public interest would be best served by capping CLEC exchange access rates at the level of the access rates of the directly competing ILEC.⁵

8. In addition to reaffirming the appropriateness of continuing the caps on CLEC access rates, the Commission also reaffirmed a CLEC's ability to propose access rates higher than those of the directly competing ILEC, and ruled that such petitions be determined on a case-by-case basis with costs an important factor to be considered:

The parties also raised questions concerning the possibility that a CLEC might propose access rates higher than those of the directly competing ILEC. While all of the parties agreed that a CLEC may petition the Commission for authority to set rates in excess of the cap, they did not agree on the standard by which such petition should be determined. Some of the parties argued that such rates must be cost-justified, while other suggested a more flexible, case-by-case analysis. The Commission concludes that Chapter 392, RSMo, requires that any such petitions be determined on a case-by-case basis. While costs are one important factor to be considered, that chapter mandates the consideration of other factors as well. *See* Section 392.185, RSMo Supp. 1999.⁶

9. McLeod's recently proposed Intrastate Access Services Tariff, Tariff No. 6, completely replaces McLeod's PSC Mo.-No. 3 in its entirety and proposes higher intrastate switched access rates that significantly exceed those of AT&T Missouri, a directly competing ILEC. Specifically, McLeod's proposed intrastate switched access rates appear to be over 50% higher than those charged by AT&T Missouri for equivalent services.

10. While a CLEC, under the Commission's order, may petition the Commission for authority to set rates in excess of those of its directly competing ILEC, such rates must be

⁵ *Id.*, at pp. 23-24, emphasis added.

⁶ *Id.*, at pp. 26-27.

supported by costs, among other factors. Here, McLeod has made no showing that its proposed increased switched access rates are justified, either by cost or on any other basis.

11. AT&T-C and AT&T Missouri's interests as telecommunications service providers differ from those of the general public. AT&T-C pays McLeodUSA both originating and terminating intrastate switched access rates on intrastate interexchange calls placed by AT&T-C's customers. AT&T Missouri pays McLeod intrastate terminating switched access rates to terminate intrastate interexchange calls placed by AT&T Missouri's customers. Both AT&T-C and AT&T Missouri have a significant financial interest in ensuring that McLeod's intrastate switched access rates are lawful and appropriate. No other party to this proceeding will adequately protect AT&T-C and AT&T Missouri's interests.

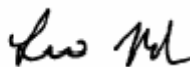
12. Granting of this intervention will be in the public interest because AT&T-C and AT&T Missouri will bring to this proceeding their experience as telecommunications providers and their expertise in analyzing cost studies, which should assist the Commission in its review of McLeod's proposed intrastate switched access rates and any cost support they may provide to justify those rates.

WHEREFORE AT&T-C and AT&T Missouri respectfully request the Commission to suspend McLeod's tariff for investigation.

Respectfully submitted,

AT&T COMMUNICATIONS SOUTHWEST, INC.
SOUTHWESTERN BELL TELEPHONE, L.P.

BY

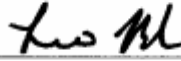


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CERTIFICATE OF SERVICE

Copies of this document were served on the following parties by e-mail on June 15, 2006.



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