

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

In the Matter of the Application of )  
Southwestern Bell Telephone Company ) Case No. TO-2002-185  
To Transfer Property and Ownership of )  
Stock Pursuant to Section 392.300, R.S.Mo. )

**AT&T MISSOURI'S NOTICE OF REVERSION TO  
MISSOURI CORPORATE FORM, ALTERNATIVE  
APPLICATION FOR AUTHORIZATION AND WAIVERS,  
AND REQUEST FOR EXPEDITED TREATMENT**

AT&T Missouri<sup>1</sup> respectfully notifies the Missouri Public Service Commission ("Commission") that AT&T Missouri plans to relinquish its previously-granted authority to convert to a Texas limited partnership and to revert to its prior form as a Missouri corporation. Out of an abundance of caution, AT&T Missouri alternatively requests<sup>2</sup> Commission authorization of this strictly pro forma corporate reorganization in the event such authority is required and a waiver of Commission rules 4 CSR 240-3.525(2)(G) and 4 CSR 240-33.150. AT&T Missouri asks that this notice be accepted, or in the alternative, that the requested authorization and waivers be granted effective no later than June 26, 2007 (with a June 29, 2007 effective date). The reasons for the urgency in this request are explained in more detail below.

**EXECUTIVE SUMMARY**

In 2001, Southwestern Bell Telephone Company, through a series of transactions, converted from a Missouri corporation to Southwestern Bell Telephone, L.P., a Texas limited

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<sup>1</sup> Southwestern Bell Telephone, L.P., d/b/a AT&T Missouri, will be referred to in this pleading as "AT&T Missouri." AT&T Missouri is filing this Application on behalf of itself and a Missouri corporation that will be formed under the name SWBT Inc. and into which AT&T Missouri will be reorganized. Due to the need to avoid duplicate names, the newly formed corporation will initially be named SWBT Inc. At the effective time of the merger, the surviving corporation's name will be changed to Southwestern Bell Telephone Company. In this Notice and Application, this new entity will be referred to as "SWBT."

<sup>2</sup> AT&T Missouri files this application pursuant to Section 392.300 RSMo (2000) and Commission rules 4 CSR 240-2.060 and 4 CSR 240-3.525. It seeks expedited treatment pursuant to 4 CSR 240-2.080(16).

partnership. The company undertook this corporate restructuring in order to achieve overall tax savings from the non-applicability of Texas franchise tax to certain Texas limited partnerships. Such restructurings were commonplace in Texas at that time.

Texas franchise tax law changed in 2006. Through Texas House Bill 3, limited partnerships became subject to Texas franchise tax for tax reports due on or after January 1, 2008.

Texas franchise tax law was further changed yesterday, June 17, 2007, when the Texas Governor signed Texas House Bill 3928.<sup>3</sup> That law establishes final transition rules relating to Texas tax law changes instituted when Texas House Bill 3 was enacted in 2006. These transition rules provide that Texas franchise tax applies to limited partnerships in existence on July 1, 2007. AT&T Missouri, pending the completion of the proposed reorganization on June 29, 2007, will not be required to file a Texas franchise tax report for business activity through June 29, 2007 (although the successor entity from the reorganization will be subject to Texas franchise tax thereafter).

AT&T Missouri believes that specific Commission authorization of this reorganization is not necessary as AT&T Missouri is simply relinquishing the authorization previously granted in this case and will be returning to its prior status as a Missouri corporation.

Alternatively and out of abundance of caution, AT&T Missouri, pursuant to Section 392.300 RSMo (2000), requests Commission authorization of this corporate reorganization. In order to avoid unnecessary customer inconvenience and confusion, AT&T Missouri also requests a waiver of Commission rules 4 CSR 240-3.525(2)(G) (which requires customer notification of a

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<sup>3</sup> See Affidavit of Lawrence Ruzicka, attached as Exhibit 1.

“different” service provider) and 4 CSR 240-33.150 (which requires prior customer authorization and verification of changes in telecommunications service providers).

The Commission should approve this strictly pro forma reorganization because it will not be detrimental to the public interest. It will have no adverse effect on the tax revenues of the State of Missouri or on any of its political subdivisions in which AT&T Missouri’s structures, facilities, or equipment are located. Moreover, this reorganization will have no effect on AT&T Missouri’s facilities, equipment, operations, services, personnel, management or control. And it will be transparent to AT&T Missouri’s customers. The services that AT&T Missouri’s customers will receive after the reorganization will be subject to the same Commission-approved tariff rates, terms and conditions as the services they currently receive from AT&T Missouri.

If Commission authorization is needed, AT&T Missouri respectfully requests a decision by June 26, 2007 (with a June 29, 2007 effective date). AT&T Missouri seeks expedited treatment in order to comply with the transition rules under House Bill 3928, which in effect, provide a one-time tax savings opportunity if the corporate reorganization is completed within the narrow window between June 17 and 29, 2007. AT&T Missouri, therefore, respectfully requests the Commission approve the transaction and requested waivers on an expedited basis, but no later than June 26, 2007 (with a June 29, 2007 effective date), and that any notice and intervention period be similarly expedited.

## **I. BACKGROUND**

On October 12, 2001, Southwestern Bell Telephone Company (and various of its affiliates) filed a verified application requesting that the Commission approve a corporate restructuring under which it would be converted to a Texas limited partnership. The company undertook this corporate restructuring in order to achieve overall tax savings from the non-

applicability of Texas franchise tax to certain Texas limited partnerships. Such restructurings were commonplace in Texas at that time.

The Commission fully vetted the 2001 corporate restructuring, accepting extensive briefing and comments from the Office of Public Counsel (“OPC”), Staff of the Missouri Public Service Commission (“Staff”) and from the Missouri Independent Telephone Company Group (“MITG”) and the Small Telephone Company Group (“STCG”), to whom it granted intervention. Based on this record, the Commission on December 20, 2001, issued an Order Approving Reorganization, finding that “no party has raised any significant arguments how it could prove detrimental to the public interest.”<sup>4</sup> The Commission determined that as a practical matter, the oversight it would have over the company as a limited partnership would not be significantly different than the oversight it then exercised over the company as a Missouri corporation. The Commission also concluded that there would be no effect on customers or on state tax revenues.<sup>5</sup> The Commission then directed the newly formed Texas limited partnership, denominated as Southwestern Bell Telephone, L.P., d/b/a Southwestern Bell Telephone Company, to file an adoption notice and revised tariff sheets along with evidence of the registration of its fictitious name with the Missouri Secretary of State no later than January 18, 2002. After the company’s compliance with these requirements, the Commission on January 9, 2002, issued an Order approving the revised tariffs.<sup>6</sup>

Following the approval of its revised tariffs, Southwestern Bell Telephone, L.P., provided service under the fictitious name “Southwestern Bell Telephone Company” until February 16,

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<sup>4</sup> In the Matter of the Application of Southwestern Bell Telephone Company to Transfer Property and Ownership of Stock Pursuant to Section 392.300, R.S.Mo., Case No. TO-2002-185, Order Approving Reorganization, issued December 20, 2001 at p. 4.

<sup>5</sup> Id. at p. 6.

<sup>6</sup> In the Matter of the Application of Southwestern Bell Telephone Company to Transfer Property and Ownership of Stock Pursuant to Section 392.300, R.S.Mo., Case No. TO-2002-185, Order Approving Tariffs, issued January 9, 2002 at pp. 1-2.

2003, when Southwestern Bell Telephone, L.P., changed its fictitious name to “SBC Missouri.”<sup>7</sup> Effective December 29, 2005, Southwestern Bell Telephone, L.P., subsequently changed its fictitious name from SBC Missouri to AT&T Missouri.<sup>8</sup> It has continued to provide telecommunications in Missouri as AT&T Missouri since that time.

Texas franchise tax law changed in 2006. Through Texas House Bill 3, limited partnerships became subject to Texas franchise tax for tax reports due on or after January 1, 2008.

Texas franchise tax law was further changed yesterday, June 17, 2007, when the Texas Governor signed Texas House Bill 3928.<sup>9</sup> That law establishes final transition rules relating to Texas tax law changes instituted when Texas House Bill 3 was enacted in 2006. These transition rules provide that Texas franchise tax applies to limited partnerships in existence on July 1, 2007. AT&T Missouri, pending the completion of the proposed reorganization on June 29, 2007, will not be required to file a Texas franchise tax report for business activity through June 29, 2007 (although the successor entity from the reorganization will be subject to Texas franchise tax thereafter).

Accordingly, AT&T Missouri plans to reorganize from a Texas limited partnership to a Missouri corporation.

## **II. THE PROPOSED REORGANIZATION**

1. Currently, AT&T Missouri is a Texas limited partnership owned by two AT&T corporate entities, which hold the following ownership interests:

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<sup>7</sup> See In the Matter of the Name Change of Southwestern Bell Telephone, L.P., d/b/a Southwestern Bell Telephone Company to Southwestern Bell Telephone, L.P., d/b/a SBC Missouri, Case No. IN-2003-0247, Order Recognizing Change of Name, issued January 31, 2003.

<sup>8</sup> In the Matter of the Tariff Sheets Filed by Southwestern Bell Telephone, L.P., d/b/a SBC Missouri In Order to Change its Fictitious Name to AT&T Missouri, Case No. In-2006-0232, Order Recognizing Name Change, Approving Tariff and Closing Case, issued December 12, 2005.

<sup>9</sup> See Affidavit of Lawrence Ruzicka, attached as Exhibit 1.

- SWBT Texas, L.L.C., a Delaware limited liability corporation. Holds a 1% general partnership interest in AT&T Missouri.
- Southwestern Bell Texas Holdings, Inc., a Delaware Corporation. Holds a 99% limited partnership interest in AT&T Missouri.

2. AT&T Missouri proposes to reorganize from a Texas limited partnership to a Missouri corporation. The proposed reorganization will occur as follows:

- a. SWBT is formed as a Missouri domestic corporation and is authorized to issue 1,000 shares common stock.
- b. Southwestern Bell Telephone, L.P., d/b/a AT&T Missouri, a Texas limited partnership, merges with and into SWBT, a Missouri corporation, with SWBT as the survivor entity. Upon the merger, all of Missouri's assets, including its franchise authority to provide telecommunications services in Missouri, will be held by SWBT.

3. Following AT&T Missouri's reorganization from a Texas limited partnership to a Missouri corporation, the two AT&T corporate entities that own AT&T Missouri will continue to hold the same ownership interest in the newly formed Missouri corporation:

- SWBT Texas, L.L.C., a Delaware limited liability corporation. Will hold a 1% interest in SWBT (10 shares).
- Southwestern Bell Texas Holdings, Inc., a Delaware Corporation. Will hold a 99% in SWBT (990 shares).

### **III. THE LEGAL STANDARD**

#### **a. Commission Approval Should Not Be Required for the Corporate Reorganization.**

4. AT&T Missouri plans to return to its structure that existed in 2001, under which it had operated for decades. AT&T Missouri believes that specific Commission authorization of this reorganization is not necessary as it will simply be relinquishing, on a prospective basis, the authorization previously granted in this case to convert from a Missouri corporation to a Texas limited partnership and transfer its assets to that entity. Relinquishment of that authority

prospectively should allow AT&T Missouri to revert to the status quo ante as a Missouri corporation, the structure through which it had operated for many years before 2001.

**b. Alternative Request for Commission Authorization**

5. In the event the Commission determines that it is required to review this pro-forma corporate reorganization, the Commission would do so pursuant to its authority under Section 392.300 RSMo (2000), which states:

1. No telecommunications company shall hereafter sell, assign, lease, transfer, mortgage or otherwise dispose of or encumber the whole or any part of its franchise, facilities or system, necessary or useful in the performance of its duties to the public, nor by any means, direct or indirect, merge or consolidate such line or system, or franchises, or any part thereof, with any other corporation, person or public utility, without having first secured from the commission an order authorizing it to do so. Every such sale, assignment, lease, transfer, mortgage, disposition, encumbrance, merger or consolidation made other than in accordance with the order of the commission authorizing the same shall be void. The permission and approval of the commission to the exercise of a franchise or permit under this chapter, or the sale, assignment, lease, transfer, mortgage or other disposition or encumbrance of a franchise or permit under this section shall not be construed to revive or validate any lapsed or invalid franchise or permit, or to enlarge or add to the powers or privileges contained in the grant of any franchise or permit, or to waive any forfeiture. Any person seeking any order under this subsection authorizing the sale, assignment, lease, transfer, merger, consolidation, or other disposition, direct or indirect, of any telecommunications company shall, at the time of application for any such order, file with the commission a statement, in such form, manner and detail as the commission shall require, as to what, if any, impact such sale, assignment, lease, transfer, merger, consolidation, or other disposition will have on the tax revenues of the political subdivisions in which any structures, facilities, or equipment of the companies involved in such disposition are located. The commission shall send a copy of all information obtained by it as to what, if any, impact such sale, assignment, lease, transfer, merger, consolidation, or other disposition will have on the tax revenues of various political subdivisions to the county clerk of each county in which any portion of a political subdivision which will be affected by such disposition is located.

6. In reviewing transactions previously approved under Section 392.300, the Commission has approved transactions “unless approval will be detrimental to the public

interest.”<sup>10</sup> In other words, absent a detriment to the public interest, the transaction is to be approved.

7. The Commission has often approved such transactions in the past. For example, in December, 2001, the Commission approved the corporate reorganization of Southwestern Bell Telephone Company, a Missouri corporation, to a Texas limited partnership (i.e., Southwestern Bell Telephone, L.P.).<sup>11</sup> And it previously approved similar transactions for MCI,<sup>12</sup> and Excel Telecommunications.<sup>13</sup> The instant matter involves no change in ownership and will result in AT&T Missouri returning to a form under which it had operated for many years. This fact alone makes it difficult to imagine how any party could assert that this reversion would be “detrimental to the public interest,” as there was never a determination that SWBT’s operation as a Missouri corporation was detrimental to the public interest.

#### **IV. INFORMATION SUBMITTED PURSUANT TO SECTION 392.300(1) RSMO**

8. AT&T Missouri’s reversion to a Missouri corporation from a Texas limited partnership will have no adverse impact on the tax revenues of the political subdivisions in which AT&T Missouri’s structures, facilities, or equipment are located since SWBT, the newly-organized Missouri corporation, will continue to own and operate the various structures,

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<sup>10</sup> Order Approving Reorganization, Case No. TO-2002-185 at p. 4. See also State ex rel. Fee Fee Trunk Sewer, Inc. v. Litz 596 S.W.2d 466, 468 (Mo. App. E.D. 1980) (citing State ex rel. City of St. Louis v. Pub. Serv. Comm’s, 73 S.W.2d 392, 400 (Mo. banc 1934)). (Under Section 392.300, “[t]he Commission may not withhold its approval of the disposition of assets unless it can be shown that such disposition is detrimental to the public interest”).

<sup>11</sup> See Order Approving Reorganization, In the Matter of the Application of Southwestern Bell Telephone Company to Transfer Property and Ownership of Stock Pursuant to Section 392.300, RSMo, Case No. TO-2002-185, released December 20, 2001.

<sup>12</sup> See Order Approving Merger, In the Matter of the Application of MCI Telecommunications Corporation, MCImetro, Inc., MCImetro Access Transmission Services, Inc. and MCImetro Access Transmission, L.L.C., for Approval of Merger, Case No. TM-98-576, released October 28, 1998.

<sup>13</sup> See Order Approving Corporate Reorganization, In the Matter of the Application for Approval of Corporate Reorganization of Excel Telecommunications, Inc., Case No. TO-96-293, released June 14, 1996.



facilities, and equipment of AT&T Missouri and intends to continue to pay the amount of taxes as required by law. (See Exhibit 1).

9. The proposed corporate reorganization will be strictly pro forma in nature. There will be no change in AT&T Missouri's operations as a result of its reversion to a Missouri corporation. There will be no change in AT&T Missouri's ownership, control, personnel, management, or in the day-to-day operations of the company. After its reversion to a Missouri corporation, AT&T Missouri will continue to use the same network, the same maintenance and provisioning systems and procedures, the same billing systems and procedures and the same customer care operations that it currently uses to provide telecommunications services to its customers in Missouri.

10. SWBT, the newly-organized Missouri corporation, will continue to provide the same telecommunications services as AT&T Missouri currently provides in Missouri, and it will do so under the same tariff rates, terms and conditions currently on file with the Commission. Thus, the proposed reorganization will be transparent to Missouri customers.

11. The proposed reorganization will not adversely affect AT&T Missouri's obligation or ability to provide telecommunication services in Missouri and AT&T Missouri's customers will continue to receive telecommunications service in the same manner and with the same level of quality as before the reorganization. Accordingly, the reorganization will not be detrimental to the public interest.

**V. INFORMATION SUBMITTED PURSUANT TO 4 CSR 240-2.060(1) AND (3)**

12. AT&T Missouri submits this Application pursuant to Commission rules 4 CSR 240-2.060 and 4 CSR 240-3.525.

13. Pursuant to 4 CSR 240-2.060(1)(A), AT&T Missouri is a Texas limited partnership with the mailing address of its principal Missouri office at One AT&T Center, Room 3520, St. Louis, Missouri 63101. It may be contacted by electronic mail, fax and telephone at the electronic address, fax and telephone numbers of its attorneys, as set out under the signature block of this Application. SWBT will be a Missouri corporation. The street and mailing address of its principal Missouri office, its electronic mail address, fax number and telephone number will be the same as those for AT&T Missouri.

14. Pursuant to 4 CSR 240-2.060(1)(B), [MoCo's] certificate of existence<sup>14</sup> from the Missouri secretary of state will be filed with the Commission when it is available.

15. Pursuant to 4 CSR 240-2.060(1)(C), neither AT&T Missouri nor SWBT is a foreign corporation. AT&T Missouri, however, is a Texas limited partnership and is duly authorized to conduct business in Missouri.<sup>15</sup>

16. Pursuant to 4 CSR 240-2.060(1)(D), a copy of AT&T Missouri's partnership agreement is already on file with the Commission.<sup>16</sup>

17. Pursuant to 4 CSR 240-2.060(1)(E), a copy of the fictitious name registration for "AT&T Missouri" from the Missouri Secretary of State is already on file with the Commission.<sup>17</sup>

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<sup>14</sup> The Missouri Secretary of State does not typically issue certificates of good standing to newly formed corporations.

<sup>15</sup> In accordance with 4 CSR 240-2.060(1)(G), a copy of the certificate from the Missouri Secretary of State certifying that Southwestern Bell Telephone, L.P. is a foreign limited partnership duly authorized to transact business in the State of Missouri was filed with the Commission on January 7, 2002. See, In the Matter of the Application of Southwestern Bell Telephone Company to Transfer Property and Ownership of Stock Pursuant to Section 392.300, RSMo., Case No. TO-2002-185. This certificate continues to be effective presently.

<sup>16</sup> In accordance with 4 CSR 240-2.060(1)(G), a copy of the Southwestern Bell Telephone, L.P. partnership agreement was filed with the Commission on October 15, 2003. See, In the Matter of the Application of Southwestern Bell Telephone, L.P., d/b/a SBC Missouri, for Review and Reversal of North American Number Plan Administrator's Decision to Withhold Numbering Resources, Case No. TO-2004-0170. This agreement continues to be effective presently.

<sup>17</sup> In accordance with 4 CSR 240-2.060(1)(G), a copy of the registration of the fictitious name "AT&T Missouri" was filed with the Commission on December 2, 2005. See, In the Matter of the Application of Southwestern Bell Telephone, L.P., d/b/a AT&T Missouri for Review and Reversal of the North American Number Plan Administrator's Decision to Withhold Numbering Resources, Case No. TO-2006-0247.

SWBT, after it is formed, will conduct business under the fictitious name "AT&T Missouri." Once [MoCo's] fictitious name is registered with the Missouri Secretary of State, a copy of the registration will be filed with the Commission.

18. Pursuant to 4 CSR 240-2.060(1)(F), neither AT&T Missouri nor SWBT is a political subdivision of the state.

19. Pursuant to 4 CSR 240-2.060(1)(H), 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.<sup>18</sup> If the Commission approves the reorganization of AT&T Missouri from a Texas limited partnership to a Missouri corporation, SWBT will be a "local exchange telecommunications company" and a "public utility," and will be duly authorized to provide "telecommunications service" within the State of Missouri, as each of those phrases is defined in Section 386.020, RSMo. 2000.

20. Pursuant to 4 CSR 240-2.060(1)(I) all correspondence, pleadings, orders, decisions, and communications regarding this proceeding for both AT&T Missouri and SWBT should be sent to:

Timothy P. Leahy  
Leo J. Bub  
Robert J. Gryzmala  
Attorneys for Southwestern Bell Telephone, L.P.,  
d/b/a AT&T Missouri  
One AT&T Center, Suite 3518  
St. Louis, Missouri 63101  
314-235-2508

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<sup>18</sup> By its Order Recognizing Name Change, Approving Tariff and Closing Case, in Case No. IN-2006-0232 (effective December 29, 2005), the Commission ordered that the fictitious name "AT&T Missouri" be recognized. Southwestern Bell Telephone, L.P., d/b/a AT&T Missouri previously conducted business as Southwestern Bell Telephone, L.P., d/b/a SBC Missouri.

21. Pursuant to 4 CSR 240-2.060(1)(J), neither AT&T Missouri nor SWBT is an association.

22. Pursuant to 4 CSR 240-2.060(1)(K), AT&T Missouri has no final unsatisfied judgments or decisions against it from any state or federal agency or court which involve retail customer service or rates, which action, judgment or decision has occurred within three (3) years of the date of this application. Moreover, AT&T Missouri has no pending actions which satisfy the listed criteria in Arkansas, Kansas, Missouri or Oklahoma. AT&T Missouri (which operates in Texas under the fictitious name AT&T Texas) has four pending formal complaints from end-user customers in Texas which involve retail customer service or rates.<sup>19</sup> (Additionally, AT&T Missouri is involved in various actions involving terms and conditions of interconnection agreements with competitive local exchange telephone companies that are in various stages of litigation or appeal.) Pursuant to 4 CSR 240-2.060(1)(K), SWBT has no pending actions or final unsatisfied judgments or decisions against it from any state or federal agency or court which involve customer service or rates, which action, judgment or decision has occurred within three (3) years of the date of this application.

23. Pursuant to 4 CSR 240-2.060(1)(L), AT&T Missouri states that no annual report or assessment fees are overdue. SWBT has not conducted business in the State of Missouri and, therefore, no annual report or assessment fees are due.

24. Pursuant to 4 CSR 240-2.060(1)(M), an authorized member of AT&T Missouri has verified this Application by affidavit under oath as indicated by the Verification attached as

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<sup>19</sup> The pending lawsuits in Texas involving customer service or rates are (1) Irving's Holding, Inc. v. SBC Communications, Inc., Docket No. CC-05-07415-C; and (2) Ron Russek, as Partner of Heaven Scent Pizza, L.P., d/b/a Domino's Pizza v. AT&T f/k/a SBC Communications, Inc., Docket No. C200600151. The pending formal complaints before the Texas Public Utility Commission involving customer service or rates are as follows: (1) Complaint of Harris County Hospital District Against AT&T Texas, Docket No. 34332; and (2) Complaint of John J. Gitlin, Exq. Against AT&T Texas, Docket No. 34348.

Exhibit 3. An authorized officer of SWBT once it is formed will verify this Application by affidavit, which will be filed with the Commission when available.

**VI. INFORMATION SUBMITTED PURSUANT TO 4 CSR 240-3.525**

25. Pursuant to 4 CSR 240-3.525(2)(A), a copy of the proposed agreement and plan of merger, including organizational chart depicting the relationship of the merging entities before and after the transaction will be filed with the Commission when available.

26. Pursuant to 4 CSR 240-3.525(2)(B), a certified copy of the resolution of the general partner of Southwestern Bell Telephone, L.P., d/b/a AT&T Missouri authorizing the merger of AT&T into SWBT will be filed with the Commission when available. In addition, a certified copy of the resolution of the board of SWBT authorizing the merger by and between AT&T Missouri and SWBT will be filed with the Commission when available.

27. Pursuant to 4 CSR 240-3.525(2)(C), AT&T Missouri attaches its balance sheets and income statements as Exhibit 2.<sup>20</sup> As a newly formed entity, SWBT does not have separate balance sheets and income statements. Effective with the reorganization, the balance sheets and income statements of AT&T Missouri will become the balance sheets and income statements of SWBT.

28. Pursuant to 4 CSR 240-3.525(2)(D), the proposed merger of AT&T Missouri and SWBT is not detrimental to the public interest. The reversion of AT&T Missouri from a Texas limited partnership to a Missouri corporation will have no adverse impact on the tax revenues of the political subdivisions in which AT&T Missouri's structures, facilities, or equipment are located since SWBT will continue to own and operate the various structures, facilities and equipment of AT&T Missouri and intends to continue to pay all taxes required by law. (See

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<sup>20</sup> These same financial statements were included as Schedules 2 and 7 to AT&T Missouri's 2006 Annual Report filed with the Commission on April 13, 2007.

Exhibit 1). Further, SWBT will continue to provide telecommunications service in Missouri in the same manner as AT&T Missouri provides them today, and the conversion of AT&T Missouri from a Texas limited partnership to a Missouri corporation will be transparent to Missouri customers.

29. Pursuant to 4 CSR 240-3.525(2)(E), there will be no impact on AT&T Missouri's or SWBT's Missouri jurisdictional operations "relative to the merger and acquisition in question." The reorganization of AT&T Missouri from a Texas limited partnership to a Missouri corporation will result in SWBT being a telecommunications company pursuant to §382.020(51), subject to the jurisdiction of the Commission under Chapter 392.

30. Pursuant to 4 CSR 240-3.525(2)(F), AT&T Missouri's reversion from a Texas limited partnership to a Missouri corporation will have no adverse impact on the tax revenues of the political subdivision in which any structures, facilities or equipment of AT&T Missouri are located. (See Exhibit 1.)

31. Pursuant to 4 CSR 240-3.525(2)(G)(1)-(4), AT&T Missouri does not believe that this requirement would apply to AT&T Missouri's reversion from a Texas limited partnership to a Missouri corporation in that its restructure is being done on a strictly pro forma basis and all aspects of the entity, aside from its corporate form, will remain the same (e.g., after the reorganization, SWBT will provide service under the fictitious name AT&T Missouri. The services SWBT will provide will be the exact same services under the same tariff rates, terms and conditions as those currently provided by AT&T Missouri). Under these unique circumstances, AT&T Missouri believes that customer notification of this reorganization would cause significant customer inconvenience and confusion and result in a flood of customer calls both to AT&T Missouri and to the Commission. But in the event the Commission determines

that 4 CSR 240-3.525(2)(G) applies here, AT&T Missouri respectfully requests the Commission waive this rule.

**VII. INFORMATION SUBMITTED PURSUANT TO 4 CSR 240-2.060(4)**

32. Pursuant to 4 CSR 240-2.060(4)(A), AT&T Missouri seeks a waiver of (a) Commission Rule 4 CSR 240-33.150 (Verification of Orders for Changing Telecommunications Service Provider); and (b) Commission Rule 4 CSR 240-3.525(2)(G) (customer notification of “different” service provider).

33. Pursuant to 4 CSR 240-2.060(4)(B), good cause exists for the Commission to grant AT&T Missouri’s waiver requests. The purpose of Commission rule 4 CSR 240-33.150 is to prevent “slamming,” the unauthorized change of a customer’s telecommunications carrier without the customer’s knowledge. The purpose of Commission rule 4 CSR 240-3.525(2)(G) is to ensure that customers are made aware that their chosen provider will change as a result of a corporate transaction (e.g., merger, consolidation, or sale or assignment of assets). Here, the customers’ provider is not changing in any practical way. Only the corporate form of the customers’ chosen provider is changing as a result of the corporate reorganization. This strictly pro forma corporate reorganization will have no effect on AT&T Missouri’s facilities, equipment, operations, services, personnel, management or control. It will be transparent to AT&T Missouri’s customers. After the reorganization, SWBT will provide service under the fictitious name “AT&T Missouri.” The services SWBT will provide will be the exact same services under the same tariff rates, terms and conditions as those currently provided by AT&T Missouri. Under these circumstances, customer notification of this reorganization and any attempt to secure prior authorization and verification would cause significant customer inconvenience and confusion. Such confusion could result in a flood of customer calls both to

AT&T Missouri and to the Commission. Although an actual change of the customer's selected carrier will not occur here as a result of this pro forma reorganization, Commission rules provide for waiver of prior customer authorization and verification when the carrier change "is a result of a merger or consolidation or the sale, assignment, lease or transfer of assets approved by the Commission."<sup>21</sup> And the Commission has previously granted waivers to carriers involved in such transactions.<sup>22</sup> As AT&T Missouri's customers will, for all practical purposes, retain their selected carrier after AT&T Missouri reverts to a Missouri corporation, there should be no hesitation in finding that good cause exists for granting the requested waivers.

34. Pursuant to 4 CSR 240-2.060(4)(C), no public utility will be affected by the Commission's granting of the requested waivers.

### **VIII. REQUEST FOR EXPEDITED TREATMENT**

35. In the event the Commission determines that review and approval of AT&T Missouri's proposed reversion to a Missouri corporation is necessary, AT&T Missouri, pursuant to 4 CSR 240-2.080(16) respectfully requests the Commission to complete its review on an expedited basis:

A. AT&T requests the Commission to issue its Order approving AT&T Missouri's reorganization into a Missouri corporation and waiving Commission rules 4 CSR 240-

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<sup>21</sup> 4 CSR 240-33.150(4)(A) states:

A telecommunications carrier may submit or execute a change in a subscriber's provider of telecommunications service on behalf of the subscriber without obtaining authorization and verification in accordance with the procedures prescribed in 4 CSR 240-33.150(2) and 4 CSR 240-33.150(3) when such change is a result of merger or consolidation or the sale, assignment, lease or transfer of assets approved by the commission.

<sup>22</sup> See In the Matter of the Joint Application of ACSI Local Switched Services, Inc. d/b/a e.Spire and American Communications Services of Kansas City, Inc. d/b/a e.Spire and Xpedius Management Co. Switched Services, L.L.C., and Xpedius Management Co. of Kansas City, L.L.C., for Approval of (i) the Transfer of Substantially all of the Assets, Including the Customers, of the e.Spire Operating Entities to the Xpedius Operating Entities; and (ii) the Discontinuance of Telecommunications Services in Missouri by the e.Spire Operating Entities, Case No. TM-2002-1155, Order Approving Transfer of Assets and Granting Waiver of 4 CSR 240-33.150, issued July 9, 2002.



3.525(2)(G) and 4 CSR 240-33.150 no later than June 26, 2007 (with a June 29, 2007 effective date).

B. It is necessary for the Commission to issue its Order approving the reorganization no later than June 26, 2007 (with a June 29, 2007 effective date) in order for AT&T Missouri to comply with the transition rules under House Bill 3928, which in effect, provide a one-time tax savings opportunity if the corporate reorganization is completed within the narrow window between June 17 and 29, 2007. If the reorganization is not completed by June 29, 2007, AT&T Missouri will be required to pay Texas corporate franchise tax on business activity for the January 1, 2007 to June 30, 2007 period. There will be no negative effect on AT&T Missouri's customers or on the general public if the Commission acts on AT&T Missouri Application and request for waivers by June 26, 2007 (with a June 29, 2007 effective date).

C. AT&T Missouri filed this application for authorization and waivers as soon as it could have been filed. Although the new Texas tax law emanated from 2007 Texas legislative session, which ended in May, the Texas Governor had until June 17, 2007 to either sign or veto the legislation. Until yesterday when the Texas Governor signed this new law, AT&T Missouri was unsure whether the law would be going into effect. AT&T Missouri filed this Application and its request for waivers with the Commission on the first business day after the new law became effective.

## **IX. CONCLUSION**

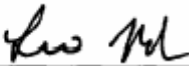
35. For the reasons set out above, it should be beyond question that AT&T Missouri's reversion from a Texas limited partnership to a Missouri corporation is not detrimental to the public interest. This pro forma corporate reorganization will not adversely affect Missouri tax revenues, nor will it impact AT&T Missouri's facilities, equipment, operations, services,

personnel, management, or control. And it will be transparent to AT&T Missouri customers. In essence, AT&T Missouri simply seeks to relinquish the authority the Commission previously granted in this case to convert from a Missouri corporation to a Texas limited partnership. In the event the Commission proceeds to review AT&T Missouri's proposed reorganization into a Missouri corporation, it should find that the reorganization is not contrary to the public interest and that the requested waivers are supported by good cause.

WHEREFORE, AT&T Missouri respectfully requests that the Commission issue an order on or before June 26, 2007 (with a June 29, 2007 effective date), recognizing AT&T Missouri's reversion to a Missouri corporation, or alternatively approving this Application and granting the requested waivers of Commission rules 4 CSR 240-3.525(2)(G) and 4 CSR 240-33.150, together with any further and additional relief the Commission deems just and proper.

Respectfully submitted,

SOUTHWESTERN BELL TELEPHONE, L.P.,  
D/B/A AT&T MISSOURI

BY 

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## **LIST OF EXHIBITS**

1. Affidavit of Lawrence Ruzicka
2. Balance Sheets and Income Statement of Southwestern Bell Telephone, L.P. as of December 31, 2006
3. Verification of Bradley Brown for Southwestern Bell Telephone, L.P.

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

In the Matter of the Application of )  
Southwestern Bell Telephone Company ) Case No. TO-2002-185  
To Transfer Property and Ownership of )  
Stock Pursuant to Section 392.300, R.S.Mo. )

**AFFIDAVIT OF LAWRENCE RUZICKA**

I, Lawrence Ruzicka, being duly sworn upon my oath and of lawful age, do hereby state and depose as follows:

1. I am employed as Vice-President - Tax for AT&T Services, Inc., a subsidiary of AT&T Inc.
2. I am responsible for providing tax advice and guidance to AT&T Inc. and its subsidiaries, including Southwestern Bell Telephone, L.P., a Texas limited partnership.
3. I am familiar with Texas House Bill 3928, new legislation that was signed by the Governor of Texas on June 17, 2007, which provides transition rules relating to House Bill 3 passed in 2006. In order to achieve overall tax savings in connection with the transition rules established under House Bill 3928, Southwestern Bell Telephone, L.P. proposes to reorganize from a Texas limited partnership to a Missouri corporation. I am familiar with that proposal.
4. I have determined that the reorganization of Southwestern Bell Telephone, L.P. from a Texas limited partnership to a Missouri corporation will have no adverse impact on the tax revenues of the State of Missouri or any of its political subdivisions in which Southwestern Bell Telephone, L.P.'s structures, facilities or equipment are located, since the Missouri corporation into which Southwestern Bell Telephone, L.P. will be merged will own and operate

all of the various structures, facilities and equipment of Southwestern Bell Telephone, L.P. in Missouri and intends to continue to pay taxes required by law.

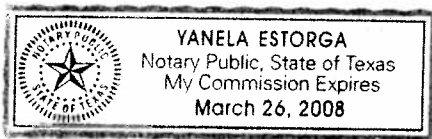
5. The foregoing is true and correct to the best of my knowledge, information and belief.

FURTHER AFFIANT SAYETH NOT.

Lawrence Ruzicka  
Lawrence Ruzicka

STATE OF TEXAS )  
 )  
COUNTY OF Bexar ) SS

I, Yanela Estorga, a Notary Public do hereby certify that on this 18 day of June, 2007, personally appeared before me Lawrence Ruzicka, who declared that all of the information contained herein above is true and correct, to the best of his knowledge, information and belief.



Yanela Estorga  
Notary Public

My Commission Expires: 3/26/08

VERIFICATION

I, Bradley Brown, as Vice President and General Manager - St. Louis Market Area of Southwestern Bell Telephone, L.P., and as an officer thereof, hereby verify pursuant to 4 CSR 240-2.060(1)(M) that I am authorized to speak on behalf of the Applicant Southwestern Bell Telephone, L.P. and that the statements made in the attached Notice of Reversion and Alternative Application are true and correct to the best of my knowledge, information and belief.

*Bradley Brown*

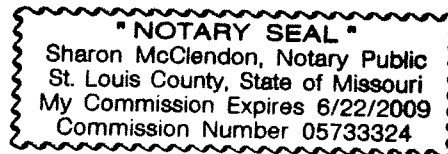
Bradley Brown

STATE OF MISSOURI            )  
                                                  )  
COUNTY OF ST. LOUIS        )        SS

I, *Sharon McClendon*, a Notary Public do hereby certify that on this 18 day of June, 2007, personally appeared before me *Bradley Brown* who declared that all of the information contained herein above is true and correct, to the best of his knowledge, information and belief.

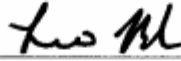
*Sharon McClendon*  
Notary Public

My Commission Expires: 6-22-09



**CERTIFICATE OF SERVICE**

Copies of this document were served on the following parties by e-mail on June 18, 2007.



Leo J. Bub

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