

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

In the Matter of a Request for the Modification)
of the Springfield Metropolitan Calling Area Plan)
to Make the Ozark Exchange a Mandatory MCA)
Tier 1 Exchange.)

Case No. TO-2005-0143

**SOUTHWESTERN BELL TELEPHONE, L.P., D/B/A AT&T MISSOURI'S REPLY TO
THE OFFICE OF THE PUBLIC COUNSEL'S FINAL RECOMMENDATION**

Comes now Southwestern Bell Telephone, L.P., d/b/a AT&T Missouri ("AT&T Missouri") and for its Reply to the Office of the Public Counsel's Final Recommendation, states as follows:

1. On January 17, 2006, OPC filed its Final Recommendation in the above-referenced case. In its Final Recommendation, OPC proposes that the constituents in the Ozark exchange, who have been optional Tier 2 MCA participants since the inception of the MCA Plan, be made mandatory Tier 1 MCA participants under the same terms and conditions as apply to all other Tier 1 exchanges. OPC indicates that the price for MCA service in the Ozark exchange should be "the same as other Tier 1 exchanges. (\$12.50 residential & \$36.95 business and includes local service)."¹ Under OPC's proposal, all customers in the Ozark exchange would be mandatory, rather than optional, participants in the MCA Plan. Finally, inter-company compensation would be bill and keep.

2. In its Final Recommendation, OPC also asks the Commission to schedule public hearings and hold an evidentiary hearing on the proposed MCA modification.²

¹ Office of the Public Counsel's Final Recommendation, TO-2005-0143, January 17, 2006, page 1. AT&T Missouri notes that the price for Tier 1 MCA service in the Springfield MCA is actually \$11.01 for residential customers and \$27.03 for business customers.

² Id. at 2.

3. AT&T Missouri opposes OPC's Final Recommendation because it would be unlawful for the Commission to modify or alter the existing MCA Plan for three reasons. First, such action would violate Section 392.200.9. Second, such action would violate Section 392.245.11. Finally, such action would be inconsistent with Missouri case law, which uniformly holds the Commission's authority to regulate does not include the right to dictate the manner in which the company shall conduct its business.³ AT&T Missouri discussed these reasons in detail in its Reply to the Office of Public Counsel's Final Recommendation in In the Matter of the Request for the Modification of the Kansas City Metropolitan Calling Area Plan to Make the Greenwood Exchange Part of the Mandatory MCA Tier 2, Case No. TO-2005-0144, May 10, 2005, and incorporates those arguments as if fully set forth herein.

4. If the Commission finds that it can lawfully impose the expanded MCA service sought by OPC, it should not do so until a hearing has been conducted in which the Commission considers, among other matters, not only whether customers want mandatory MCA service in the Ozark exchange, but also that all customers are willing to pay a compensatory price for this service, having been advised of competitive alternatives that are available to them.

5. Finally, AT&T Missouri would not oppose a public hearing and would support an evidentiary hearing on the proposed MCA modification.

Wherefore, Southwestern Bell Telephone, L.P., d/b/a AT&T Missouri, prays that the Commission considers its Reply to OPC's Final Recommendation and that the Commission dismisses OPC's request for expansion of the MCA Plan. If contrary to AT&T Missouri's

³ State v. Public Service Commission, 406 S.W.2d 5, 11 (Mo. 1966); State v. Bonacker, 906 S.W.2d 896, 899 (Mo. App. S.D. 1995); State ex re. Laclede Gas Company v. Public Service Commission, 600 S.W.2d 222, 228 (Mo. App. W.D. 1980).

position, the Commission determines that it has the authority to proceed, the Commission should require OPC to put forth evidence not only that customers want mandatory MCA service in the Ozark exchange, but also that all customers are willing to pay a compensatory price for this service, having been advised of competitive alternatives that are available to them.

Respectfully submitted,

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CERTIFICATE OF SERVICE

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