

STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION

At a Session of the Public Service  
Commission held at its office  
in Jefferson City on the 18th  
day of August, 1995.

|                                       |   |                          |
|---------------------------------------|---|--------------------------|
| In the matter of AT&T's tariff        | ) |                          |
| sheets designed to introduce MTS rate | ) |                          |
| schedules which allow separate rates  | ) | <u>Case No. TR-96-29</u> |
| for different local exchange          | ) |                          |
| companies service areas.              | ) |                          |

**ORDER REJECTING TARIFF**

On July 21, 1995, AT&T Communications of the Southwest, Inc. (AT&T) submitted proposed tariff sheets with an effective date of August 20, 1995. The revisions proposed by these tariff sheets would introduce message toll service (MTS) rate schedules in Missouri which would allow for separate rates for Southwestern Bell Telephone Company (SWBT) and independent company service areas with a third schedule for calls between the two (2) service areas.

On July 31, 1995, the Office of Public Counsel (OPC) filed a Motion to Suspend the Tariff sheets alleging that AT&T was attempting to establish the structure of the tariff in this filing without simultaneously filing the actual rates. OPC argues that AT&T's filing is inadequate and incomplete by failing to set forth a specific rate schedule which AT&T intends to charge. On August 10, 1995, a Motion to Suspend the Tariffs and a separate Application to Intervene were filed jointly by two (2) groups of entities known as the Small Telephone Company Group (STCG) and ALLTEL Missouri, Inc. (ALLTEL). STCG and ALLTEL allege that each is a constituent company of these two groups and each is a telecommunications company and

a public utility as those terms are defined in § 386.020 RSMo 1994. STCG & ALLTEL allege that AT&T's proposed new MTS schedules would result in deaveraged toll rates within the state of Missouri and in doing so would undermine a long-established Commission policy of uniform averaged toll rates. Thus, it is argued, the proposed change would jeopardize the promotion of universally available and widely affordable telecommunications services. STCG and ALLTEL believe that their customers will be adversely affected by any such differential pricing and that as a consequence the economic development in their respective areas of the state would be inhibited.

On August 11, 1995, the Mid-Missouri Group of Telephone Companies (Mid-Missouri Group) also filed a Motion to Suspend, a Motion to Dismiss and its Application to Intervene. Mid-Missouri Group is a group of local exchange telecommunications companies who assert an interest in this case which is not currently represented. Mid-Missouri Group, for its Motion to Suspend, states that it is "opposed to AT&T's tariff filing to the extent it is capable of specific understanding at this point." Mid-Missouri Group believes the proposed tariff would result in AT&T charging different rates for the same service and would cause the charging of more for interexchange calls of a shorter distance than those of a longer distance in violation of § 392.230.1 RSMo 1994. Mid-Missouri Group goes on to state that the proposed tariff is in violation of § 392.370.4 RSMo 1994 in that the tariff is not accompanied with a cost study showing its financial effects and further states that the proposed tariff could lead to rates violating § 392.400.5 RSMo 1994. Lastly, for its Motion to Dismiss, the Mid-Missouri Group states that AT&T's tariff filing is inadequate and incomplete for failing to set forth the proposed tariff and specific separate rate schedules which AT&T intends to charge. This is

similar to the arguments raised by OPC in its Motion and suggests that the Applicant has failed to comply with the requirements of §392.200.4 et seq.

On August 11, 1995, AT&T filed its Response to a Motion to Suspend. AT&T's response was, obviously, directed at the Motion to Suspend filed previously by OPC as AT&T's responsive pleading preceded the filing of the other motions addressed above. AT&T stated that it does not believe that adequate grounds exist to dismiss the tariff or to suspend and investigate the tariffs. However, AT&T has stated that it does not object to the suspension and investigation of the proposed tariffs. However, AT&T has noted in its response that AT&T is not proposing different rates at this time but rather AT&T currently intends to charge rates which are set forth in the tariff. AT&T has stated its intent in making this filing is to put before the Commission the important concept of rates based upon costs. AT&T goes on to suggest that "once the relevant issues have been addressed it will be possible to develop specific rates for insertion into the schedules."

On August 14, 1995, the Telecommunications Department Staff of the Public Service Commission (Staff) filed its Memorandum regarding AT&T's toll rate structure proposal. Staff sets out the proposal as one which would provide three separate rate schedules. One rate structure would pertain to calls originating and terminating in Southwestern Bell territory. A second rate structure would apply to calls originating and terminating in independent telephone company serving areas. A third rate structure would apply to calls between Southwestern Bell territory and the territory of an independent telephone company. At this time, the rates contained within these three rate structures will be the same so that customers will not experience any rate change. However, if the three rate structures are approved, AT&T could conceivably change rates without

Commission approval due to AT&T's competitive classification. Staff has stated that it is in agreement with OPC's Motion to Suspend the Tariff. Staff believes AT&T's proposed filing attempts to establish geographically deaveraged rate structures and that this type of pricing proposal raises significant policy issues regarding the pricing of long distance services. To Staff's knowledge no other interexchange carrier presently offers a similar geographically deaveraged rate structure for long distance toll service.

On August 15, 1995, Southwestern Bell Telephone Company (SWBT) also filed a Motion To Intervene and Motion To Suspend. SWBT states that the issue of deaveraged rates has never been addressed by the Commission. Without restating SWBT's position in its entirety, SWBT's motion raises the same primary issues as the earlier motions to suspend. In addition, SWBT argues a particular economic harm which it would suffer should this type of deaveraging be approved by the Commission.

The Commission has reviewed the proposed tariff sheet(s) and the various motions filed by STCG, ALLTEL, the Mid-Missouri Group, the Office of Public Counsel, the Commission Staff and SWBT and makes the following findings of fact and conclusions of law. The Commission finds that AT&T's proposed tariff is deficient in that it has not set out the specific rates to be charged. The various motions which argue that this matter should be suspended for full investigation and contested hearing overlook the fact that the lack of rate information would reduce such a suspension into a mere academic argument. Absent the proposed rates such an argument would not be productive.

The Commission concludes that the structure proposed by this change would deaverage rates. The statute requires any decision of the Commission regarding this issue to be based upon clear and convincing

evidence (§ 392.200(4)). Clear and convincing evidence may only be adduced by hearing and the Commission cannot conduct an evidentiary hearing on this matter without knowing the rates to be charged. Therefore, the tariff sheet(s) must contain the proposed rates to be charged at the time when they are filed. The tariff sheet(s) herein fail to meet the filing requirements and thus the Commission finds it would be improper to attempt to suspend and investigate or proceed to hearing regarding tariff provisions for which no rates have been proposed. The Commission will reject the tariff sheet(s) submitted by AT&T. For that reason the various applications to intervene in this docket will be denied as moot and this docket shall be closed.

**IT IS THEREFORE ORDERED:**

1. That the tariff sheet(s) submitted by AT&T Communications of the Southwest, Inc. are hereby rejected.
2. That the Applications to intervene filed herein by the Small Telephone Company Group and ALLTEL Missouri, Inc., by Mid-Missouri Group of Telephone Companies and by Southwestern Bell Telephone Company are hereby denied as moot.
3. That this docket shall be closed.
4. That this order shall become effective on the date hereof.

BY THE COMMISSION



David L. Rauch  
Executive Secretary

(S E A L)

Mueller, Chm., McClure, Kincheloe,  
Crumpton and Drainer, CC., Concur.