

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

In the Matter of Proposed Amendments to)
Commission Rule 4 CSR 240-3.545) TX-2003-0379
(formerly 4 CSR 240-30.010).)

**SOUTHWESTERN BELL TELEPHONE, L.P., D/B/A
SBC MISSOURI'S COMMENTS REGARDING
PROPOSED AMENDMENTS TO
COMMISSION RULE 4 CSR 240-3.545**

Comes now Southwestern Bell Telephone, L.P., d/b/a SBC Missouri, and for its Comments regarding Proposed Amendments to Commission Rule 4 CSR 240-3.545 (formerly 4 CSR 240-30.010), states as follows:

SBC Missouri understands the Missouri Public Service Commission's ("Commission") desire to establish uniform requirements for filing rate schedules/tariffs in the State of Missouri. However, proposed Rule 4 CSR 240-3.545, as written, is administratively burdensome and does not allow the flexibility that telecommunications carriers, like SBC Missouri, need to operate efficiently in multiple states. Many of the proposed rule changes would impose new requirements and would be time consuming and costly for SBC and other multi-state carriers to keep track of and comply with. Moreover, many of the proposed requirements, while costly to carriers to administer, will not benefit Missouri's customers. SBC Missouri offers the following comments.

1. SBC Missouri objects to proposed Rule 4 CSR 240-3.545(4) and proposes that it be modified as follows¹: "A tariff shall bear a number with the following prefix: PSC Mo. No. _____. **Effective with tariffs requiring a new number which are filed after (insert effective date), [T]**tariffs shall be numbered in consecutive order, commencing with a No. 1 and

¹ Language that SBC Missouri proposes to add is noted in **bold**. Language that SBC Missouri proposed to delete is noted in brackets in bold, i.e. **[bold]**.

continuing in numerical order.” As the Commission is aware, SBC Missouri’s tariffs are not consecutively numbered as contemplated by the proposed rule. It would be unduly burdensome and oppressive for SBC Missouri to renumber all of its tariffs in order to comply with this rule. If SBC Missouri were required to submit new tariffs, and revise all of the cross references contained within each tariff page to reflect the new numbering requirements this proposed rule contemplates, SBC Missouri would be required to literally change thousands of pages. Further, there would be no appreciable benefit to SBC Missouri’s customers from complying with this proposed rule and the cost would be far in excess of the \$4,600 estimate for Class A Local Telephone Companies identified in the fiscal note accompanying the proposed rule. Thus, SBC Missouri suggests grandfathering existing tariffs and modifying the proposed language to reflect that tariffs requiring a new number which are filed after the effective date of the rule be required to be numbered consecutively.

2. SBC Missouri objects to proposed Rule 4 CSR 240-3.545(8) and proposes that it be modified as follows:

Tariff(s) for all telecommunications services shall contain the following information in the order listed and shall be updated as changes occur:

- (A) Company name as registered with the Missouri Secretary of State and as certificated by the Commission;
- (B) **If applicable, Certification** Authority granted by the commission, including case number(s);
- (C) Waivers of Missouri Statutes and Commission Rules as granted by the Commission **in connection with certification to provide service**. Include case number(s) if other than case number(s) listed in subsection (8)(B);
- (D) The address, telephone number and **website or email** address, along with any other suitable means of communications, to which the general public can make requests for information on rates and services;
- (E) Table of Contents – Listing of general headings specifying sheet numbers and section numbers, if applicable;
- (F) An explanation of reference marks, technical abbreviations and definitions of terms commonly used in the tariffs;
- (G) For each service, tariff shall provide the following—
 - 1. **The name of the service, which clearly identifies the regulated intrastate offering, as it will be advertised and**

offered to the customer. Any service name that references a rate will accurately reflect the applicable intrastate rate(s) for the service;

[2. A detailed description of the service offered;

3. The specific rates and charges in US dollars and the period of time covered by the rate or charge; and

4. Any terms and customer requirements that affect the rates or charges for the service.]

(H) For competitive and incumbent local exchange telecommunications carriers, a tariff shall contain an alphabetical list of the exchange area served **by rate group if applicable**, including state name if other than Missouri. Areas served must follow exchange boundaries of the incumbent local telecommunications company and also be no smaller than an exchange, absent a ruling by the communication under 392.200(4)(2)(b), RSMo. 2000.

a. SBC Missouri objects to this proposed Rule because it would be unduly burdensome and oppressive for SBC Missouri to revise all of its tariffs to reflect the foregoing information. This proposed rule should be prospective only. As noted above, changing existing tariffs would not provide any appreciable benefit to its customers, and would cause SBC Missouri to spend far more than the \$4,600 estimated in the fiscal note for Class A Local Telephone Companies to comply with the rule. SBC Missouri also has the following specific objections.

b. SBC Missouri objects to subsection B as written because there is no provision to account for companies that did not get their authority to operate as telecommunications companies from the Commission. As the Commission is aware, SBC Missouri received its authority to operate as a telecommunications company in Missouri from the state prior to the creation of the Commission. SBC Missouri's predecessor corporations were chartered to provide service as a result of incorporation as telephone and telegraph companies pursuant to Article V, Chapter 21 of the Revised Statutes of

Missouri of 1879. This franchise grant preceded the establishment of the Commission pursuant to legislation passed in 1913. The legal significance of this franchise is that it created a valid, binding, and enforceable contract between the State of Missouri and SWBT. Accordingly, SBC Missouri recommends that the Commission modify subsection B to require identification of the certification authority only where applicable.

- c. Subsection C of this Proposed Rule should be modified as noted above in order to reflect the actual practice of the Commission and the companies operating in Missouri. The Commission typically grants waivers of certain statutes and rules to companies seeking certification and competitive classification. The tariffs filed by these companies typically reflect the statutory provisions or rules that have been waived. The rule should be modified to require tariffs to note the statutory provisions and rules which were waived in the context of a certification proceeding. As currently worded, the rule could be interpreted to require SBC Missouri to research all of its tariffs, practices, methods and procedures to determine if and/or when it may have received a waiver of any Missouri statute and/or Commission Rule. Such a requirement would be unduly burdensome, would not appreciably benefit its customers, and would require SBC Missouri to incur costs far in excess of the \$4,600 estimate for Class A Local Telephone Companies contained in the summary of fiscal impact. This broad requirement should not be imposed. The modification proposed by SBC Missouri would provide the Commission with the information it apparently seeks without imposing undue burdens on existing carriers.

- d. SBC Missouri objects to subsection D of this proposed Rule as written. Information on rates and services is readily available on SBC Missouri's internet site (and, therefore, SBC Missouri proposes to add the term website in the proposed rules) and/or customers can reach customer service representatives to provide information on rates and services. Phone numbers for these service representatives are readily available on SBC Missouri's website, customer bills, through information, or in the information pages of the telephone directory. Further, SBC Missouri notes that it occasionally revises these phone numbers. Placing these phone numbers in tariffs will cause SBC Missouri to incur ongoing costs to modify its tariffs when these phone numbers change.
- e. SBC Missouri objects to subsection F of this proposed Rule because it is unduly burdensome and oppressive. Specifically, this proposed Rule would require SBC Missouri to make extensive changes to its existing tariffs when reference marks, technical abbreviations, and definitions of terms commonly used in the tariff are not currently contained in the tariff. Such changes would require SBC Missouri to incur costs far in excess of the \$4,600 estimate for Class A Local Telephone Companies contained in the summary of fiscal impact. For that reason, this proposed Rule should be prospective only.
- f. SBC Missouri objects to subsection G, and specifically subparts 2-4, of this proposed Rule because it would require SBC Missouri to make extensive changes to its existing tariffs. Specifically, this proposed rule would require SBC Missouri to provide information in a particular order and that SBC update the information as changes occur. SBC Missouri does not necessarily

list the information in the order stated in the proposed rule. For instance, SBC Missouri usually provides a service description, then describes the terms and conditions of the service agreement, and finally lists the rates. Thus, SBC Missouri would be required to re-write and file nearly all its tariffs in order to be in compliance with this proposed rule. Again, such changes would require SBC Missouri to incur costs far in excess of the \$4,600 estimate for Class A Local Telephone Companies contained in the summary of fiscal impact. For these reasons, SBC Missouri recommends deleting subsection G, subparts 2-4.

- g. SBC Missouri proposes a modification to subsection H of this proposed Rule. As written, this proposed Rule requires local exchange telecommunications carriers to list exchange areas that they serve alphabetically. However, SBC Missouri's basic local exchange rates vary by rate group. Thus, it would be more practical for SBC Missouri to list exchanges alphabetically by rate group rather than simply alphabetically.

3. SBC Missouri objects to proposed Rule 4 CSR 240-3.545(9), which provides: "All original sheets and each subsequent sheet added to a tariff must be designated as an original sheet. All changes to tariffs must be designated "First revised sheet canceling original sheet," "Second revised sheet canceling first revised sheet," etc., and must contain reference marks denoting changes." Specifically, SBC Missouri objects to this proposed Rule to the extent that it could be interpreted to require SBC Missouri to refile all of its tariffs using the above-referenced language. As the Commission is aware, SBC Missouri's tariffs typically utilize the following language: "2nd Revised Sheet 1, Replacing 1st Revised Sheet 1." It would be unduly burdensome and oppressive for SBC Missouri to re-label all of its tariffs. Moreover, such changes would require SBC Missouri to incur costs far in excess of the \$4,600 estimate for Class A Local

Telephone Companies contained in the summary of fiscal impact. SBC Missouri, therefore, proposes the following language: “**Effective (insert date), a**[A]ll original sheets and each subsequent sheet added to a tariff must be designated as an original sheet. All changes to tariffs must be designated: “First revised sheet canceling original sheet,” “Second revised sheet canceling first revised sheet,” etc., and must contain reference marks denoting changes.”

4. SBC Missouri objects to proposed Rule 4 CSR 240-3.545(12) and proposes that it be revised as follows:

Subject to Missouri Revised Statutes and Commission Rules, all telecommunications companies shall file with the Commission any changes in rates, charges or rules that affect rates or charges. A proposed change shall be submitted in the form of a revised tariff accompanied by a cover letter and a copy of any customer notice sent or required to be sent as a result of the proposed change. **[The cover letter should be limited to approximately one hundred (100) words or less.]** A copy of the cover letter and any proposed change shall be filed with the Commission or submitted electronically through the Commission’s electronic filing and information system (EFIS), shall be served on the Office of the Public Counsel, and shall be made available for public inspection and reproduction at the company’s principal operating office or on its website.

The cover letter shall identify each proposed change, provide a brief summary of each proposed change, and provide the requested effective date of the revised tariff. **[The summary shall identify each product or service that will be affected by the proposed change and shall identify the change in the terms and conditions that the company proposes for that product or service, including any change or adjustment in the price or fee for that product or service. For each change or adjustment in prices or fees, the summary shall identify:**

- (A) The current price or fee;**
- (B) The proposed price or fee;**
- (C) Whether the change or adjustment results in an increase or decrease in price; and,**
- (D) The percent change in price.]**

- a. SBC Missouri proposes to delete the requirement that all of the information required by the rule be provided in a cover letter containing one hundred words or less. Attached as Exhibit 1 please find a sample filing letter of a required annual filing that SBC Missouri makes that contains the above-referenced

information. As the Commission can see, the letter is seven pages long. Moreover, it seems redundant to provide the current price or fee as well as the proposed price or fee as this information is clearly marked in the current and in the accompanying tariff. Thus, SBC Missouri proposes to delete the bracketed language.

- b. In the past, SBC Missouri has provided the information identified in the rule to Staff upon request and would be more than willing to provide this information to the Office of the Public Counsel (“OPC”), upon request.

5. SBC Missouri objects to proposed Rule 4 CSR 240-3.545(14) which provides: “All telecommunications companies are required to submit revisions to each PSC Mo. No. as a separate filing to be assigned a separate tracking number in EFIS.” Specifically, all telecommunications companies must be able to file tariffs in the same matter that are inextricably linked. For example, in an access to local rebalancing situation, a telecommunications carrier needs to be able to file a tariff that increases local rates while at the same time filing a tariff that decreases access rates. If these tariffs are not filed together with the same tracking number, the possibility arises that the Commission may suspend the tariff increasing local rates while at the same time approving the tariff that decreases access rates. In such a situation, the intended rebalancing would not occur. To the extent that there is a problem with EFIS such that EFIS will not allow two tariffs to be filed using the same tracking number, an EFIS solution should be implemented. If an EFIS solution for some reason cannot be implemented, SBC Missouri proposes the following language: “All telecommunications companies are required to submit revisions to each P.S.C. Mo. No. **separately [as a**

separate filing] but which may be **[as a separate filing to be]** assigned the same **[a separate]** tracking number in EFIS.”

6. SBC Missouri seeks clarification regarding proposed Rule 240-3.545(15), as it appears the citation reference should be to 4 CSR 240-33.040(4). Further, SBC Missouri objects to providing a positive affirmation in writing that notice was sent to customers at least ten (10) days in advance of the rate’s effective date at the time of the tariff filing because such notice may not have been sent to customers at the time of the tariff filing. For example, if SBC Missouri filed a tariff on March 1, 2004, with an effective date of March 31, 2004, customers would not have to receive the notification until March 21, 2004. Therefore, SBC Missouri could not provide a positive affirmation in writing that “notice was sent,” because it may not have mailed the notice before the tariff was filed. Further, at the time of filing, the carrier may not have finalized the notice that will be sent. Thus, SBC Missouri proposes the following modifications to this proposed Rule

At least ten (10) days in advance of a rate’s effective date, a[A]ll telecommunications companies must [are required to] submit a positive affirmation in writing to the commission that the notice of rate increases have [was], or will be sent to customers pursuant to 4 CSR 240-33.040(4) [with the tariff filing, a copy of the notification of rate increases sent to customers pursuant to 4 CSR 240-33.040(3) and a positive affirmation in writing that the notice was sent to customers at least ten (10) days in advance of the rate’s effective date].

7. SBC Missouri objects to proposed Rule 4 CSR 240-3.545(19) and proposes that it be modified as follows:

Promotions are those service offerings that provide a reduction or waiver of a tariffed rate for a limited period of time. Promotions are allowed to go into effect after seven (7) days prior notice to the Commission for competitive **services [companies]** and after ten (10) days prior notice to the Commission for non-competitive **services [companies (i.e. incumbent local exchange carriers)]**. Promotions must be offered under tariff, and prior notification to the Commission via a tariff filing is required. Promotions must have established start and end dates and must be offered in a non-discriminatory manner.

- a. This proposed Rule should be amended to reflect that promotions regarding competitive services offered by non-competitive companies should only require a seven day filing, not a ten day filing. This change is consistent with Section 392.500 which specifies that the Commission must be given 7 days notice of a decrease in a proposed rate and 10 days notice of an increase in a proposed rate. Specifically, Section 392.500 provides as follows:

Except as provided in section 392.200, proposed changes in rate or charges, or any classification or tariff provision affecting rates or charges, for any competitive telecommunications service, shall be treated pursuant to this section as follows:

- (1) Any proposed decrease in rates or charges, or proposed change in any classification or tariff resulting in a decrease in rates or charges, for any competitive telecommunications service shall be permitted only upon the filing of the proposed rate, charge, classification or tariff after seven days' notice to the commission; and
- (2) Any proposed increase in rates or charges, or proposed change in any classification or tariff resulting in an increase in rates or charges, for any competitive telecommunications service shall be permitted only upon the filing of the proposed rate, charge, classification or tariff and upon notice to all potentially affected customers through a notice in each such customer's bill at least ten days prior to the date for implementation of such increase or change, or, where such customers are not billed, by an equivalent means of prior notice.

8. SBC Missouri seeks clarification regarding proposed Rule 240-3.545(20), as it appears the quotation marks appear in the wrong place and should be modified as follows:

In the case of a change of name, the telecommunications company shall issue immediately and file with the commission an adoption notice substantially as follows: "The (name of telecommunications company) hereby adopts, ratifies and makes its own, in every respect as if the same had been originally filed by it, all tariffs filed with the Public Service Commission, State of Missouri, by the (name of telecommunications company) prior to (date)" or the telecommunications company shall file a new tariff under the new name.["] Specific requirements for filings regarding telecommunications company name changes are contained in Chapter 2 of the commission's rules in rule 4 CSR 240-2.060. In addition to the

filing of items in 4 CSR 240-2.060, applicant must notify its customers at or before the next billing cycle of a name change and file a copy of that notice with the adoption notice.

Wherefore, SBC Missouri prays the Commission consider its comments and eliminate or modify the proposed rules as outlined above, together with any further and/or additional relief the Commission deems just and proper.

Respectfully submitted,

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CERTIFICATE OF SERVICE

Copies of this document were served on the following parties by e-mail on April 12, 2004.


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