

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

In the Matter of the Application of AT&T)
Communications of the Southwest, Inc., d/b/a)
SmarTalk, for a Certificate of Authority to)
Provide Competitive Intrastate Interexchange)
Telecommunications Service within the State)
of Missouri and for Competitive Classification.)

Case No. _____

MOTION FOR EXPEDITED TREATMENT

AT&T Communications of the Southwest, Inc., d/b/a SmarTalk (“Applicant”), pursuant to 4 CSR 240-2.080(16), respectfully requests the Missouri Public Service Commission (“Commission”) to approve Applicant’s certification request and its proposed intrastate prepaid calling card tariff on an expedited basis and allow its proposed tariff to become effective October 31, 2006.

1. Applicant, concurrently with this Motion, has filed an Application for a Certificate of Authority to Provide Competitive Intrastate Interexchange Telecommunications Service within the State of Missouri and for Competitive Classification for the provision of prepaid calling card services within the State of Missouri.

2. In accordance with 4 CSR 240-3.510(1)(C), Applicant included with its certification application, a copy of its proposed prepaid calling card tariff which, in accordance with the rule, was filed with an effective date not fewer than forty-five (45) days after the tariff’s issue date (i.e., November 13, 2006).

3. However, due to the October 31, 2006, effective date of the Federal Communications Commission’s (“FCC’s”) Order finding menu-driven prepaid calling cards (such as Applicant’s card) to be a telecommunications service, Applicant needs its proposed intrastate prepaid calling card tariff to be effective October 31, 2006.

4. Applicant's SmarTalk prepaid calling card, because of its enhanced menu-driven features,¹ was offered initially by Applicant as an information service, not a telecommunications service. As a result of disputes with other telecommunications companies concerning the appropriate classification of its prepaid calling cards, AT&T Corp. filed with the FCC a petition requesting a declaratory ruling that among other things, its enhanced prepaid calling cards were information services and not telecommunications services, and that all calls made using such cards were interstate, not intrastate in jurisdiction.²

5. On November 22, 2004, AT&T Corp. submitted an *Ex Parte* letter to the FCC requesting a declaratory ruling concerning the appropriate classification of two additional types of "enhanced" prepaid calling card offerings, including the type of card that offers the caller a menu of options to access non-call-related information, such as that offered by Applicant.³

6. Although the FCC on February 16, 2005, denied AT&T's May 2003 Petition,⁴ the FCC also issued a Notice of Proposed Rulemaking ("NPRM") to address additional types of "enhanced" prepaid calling cards, including the menu-driven type of card described in AT&T's November, 2004 letter. In the NPRM, the Commission solicited comment on how to apply the *Calling Card Order and NPRM's* analysis to AT&T's two new "enhanced" calling card variations.⁵ On May 3, 2005, AT&T filed a petition seeking the adoption of interim rules pending a final decision by the FCC concerning these two types of calling cards.

¹ Menu-driven prepaid calling cards are cards augmented to give the card holder the option to make a telephone call or to access several types of information, such as additional information about the card distributor, sports, weather, or restaurant or entertainment information.

² See In the Matter of AT&T Corp. Petition for Declaratory Ruling Regarding Enhanced Prepaid Calling Card Services, WC Docket No. 03-133, Petition of AT&T, filed May 15, 2003 (AT&T's May 2003 Petition).

³ Letter from July Sello, Senior Attorney, AT&T, to Marlene H. Dortch, Secretary, Federal Communications Commission (Nov. 22, 2004) (AT&T's Nov. 22, 2004 letter).

⁴ AT&T Corp. Petition for Declaratory Ruling Regarding Enhanced Prepaid Calling Card Services, WC Docket Nos. 03-133, 05-68, *Order and Notice of Proposed Rulemaking*, 20 FCC Rcd 4826(1) (2005) (*Calling Card Order and NPRM*), Pet. for Rev. Pending.

⁵ *Id.*, at 4839-40,(39).

7. In an Order released June 30, 2006, the FCC found that the types of prepaid calling cards described in AT&T's November 22, 2004, letter are telecommunications services and that their providers are subject to regulation as telecommunications carriers.⁶ But due to hardships the FCC found would result from retroactive application of its decision, it concluded that its decision that "menu-driven calling cards offer telecommunications services and that their providers are subject to regulation as telecommunications carriers shall have prospective effect only."⁷ In its *Declaratory Ruling*, the FCC ordered that the final rules and rule revisions adopted would become effective 90 days after publication in the Federal Register. Since publication occurred in the August 2, 2006 Federal Register,⁸ the FCC's *Declaratory Ruling* will become effective on October 31, 2006.

8. As the FCC's *Declaratory Ruling* that Applicant's prepaid calling card service is a telecommunications service will become effective on October 31, 2006, Applicant respectfully requests the Commission to approve Applicant's certification request and its proposed intrastate prepaid calling card tariff on an expedited basis and with an October 31, 2006, tariff effective date.

9. The Commission's approval of Applicant's certification request and its proposed intrastate tariff on an expedited basis with an October 31, 2006 tariff effective date will allow Applicant to continue offering its prepaid calling card service to its customers in the State of Missouri in compliance with the FCC's *Declaratory Ruling*. The Commission's granting of this Motion for Expedited Treatment will avoid harm to consumers in the State of Missouri by avoiding any need to block their use of Applicant's prepaid calling cards for making intrastate calls in Missouri.

⁶ In the Matter of Regulation of Prepaid Calling Card Services, WC Docket No. 05-68, *Declaratory Ruling and Report and Order* (released June 30, 2006) (10).

⁷ *Id.*, (45).

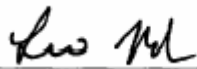
⁸ Regulation of Prepaid Calling Card Services, 71 Fed. Reg. 43, 667 (August 2, 2006).

10. Applicant did not file its Application for Certificate of Authority and its proposed tariffs sooner because it did not realize that separate certification for the SmarTalk fictitious name would be necessary and believed that only a 30-day tariff filing would be necessary to add the rates for the SmarTalk prepaid calling card to the existing AT&T Communications of the Southwest, Inc. prepaid calling card tariff.

WHEREFORE, Applicant respectfully requests the Commission grant this Motion for Expedited Treatment and, by October 31, 2006: (1) grant it a certificate of authority to provide intrastate interexchange telecommunications services within the State of Missouri; (2) grant Applicant and its proposed services competitive status; (3) waive the application of the Commission rules and statutory provisions referenced in its Application; (4) approve its filed tariff with a October 31, 2006 tariff effective date; and (5) grant Applicant such other and further relief as may be just and appropriate in the circumstances.

Respectfully submitted,

AT&T COMMUNICATIONS OF THE SOUTHWEST, INC.,
D/B/A SMARTALK

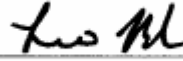
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CERTIFICATE OF SERVICE

Copies of this document were served on the following parties by e-mail on September 29, 2006.



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