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Witness:	William L. Voight
Sponsoring Party:	MO PSC Staff
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Case No.:	TT-2002-129
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MISSOURI PUBLIC SERVICE COMMISSION

UTILITY OPERATIONS DIVISION

SURREBUTTAL TESTIMONY

OF

WILLIAM L. VOIGHT

AT&T OF THE SOUTHWEST, INC. ET AL.

CASE NO. TT-2002-129

Jefferson City, Missouri
July 2005

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

In the Matter of AT&T Communications of the Southwest, Inc.'s Proposed Tariff to Establish a Monthly Instate Connection Fee and Surcharge.	Case No. TT-2002-129

AFFIDAVIT OF WILLIAM L. VOIGHT

STATE OF MISSOURI

SS

COUNTY OF COLE

William L. Voight, of lawful age, on his oath states: that he has participated in the preparation of the following Surrebuttal Testimony in question and answer form, consisting of 12 pages of Surrebuttal Testimony to be presented in the above case, that the answers in the following Surrebuttal Testimony were given by him; that he has knowledge of the matters set forth in such answers; and that such matters are true to the best of his knowledge and belief.

Bill Voight

William L. Voight

Subscribed and sworn to before me this 26th day of July, 2005.

Carla K. Schnieders

Notary Public

My commission expires June 7, 2008

CARLA K. SCHNIEDERS
Notary Public - Notary Seal
State of Missouri
County of Cole
M Commission Ex e 06/07/2008

TABLE OF CONTENTS

SURREBUTTAL TESTIMONY

OF

WILLIAM L. VOIGHT

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Q. Are you the same William L. Voight who filed Rebuttal Testimony in this case?

A. Yes.

Q. What is the purpose of your Surrebuttal Testimony?

A. My Surrebuttal Testimony is responsive to the Rebuttal Testimony filed by Ms. Barbara Meisenheimer, Chief Economist for the Office of Public Counsel. Specifically, I will comment on two main themes contained in Ms. Meisenheimer's testimony. One theme involves the OPC's claim that the In-State Fee is unjust, unreasonable, and discriminatory because of how the fee is applied to customers. A second theme involves OPC's challenge of the companies' underlying justification for the fee. I intend to comment on the rationale provided by Ms. Meisenheimer to support her reasoning. My testimony will show Ms. Meisenheimer's reasoning is not supported by marketplace realities or, at best, reflects a fundamental distinction with my position concerning government's oversight role of rates in competitive markets.

Staff Response to OPC's Concerns of How the In-State Fee is Applied:

Q. Ms. Meisenheimer objects to In-State Fees in part because they are applied to customers' bills even when customers have no in-state calling. What is your response?

A. Ms. Meisenheimer's concerns are exemplified in her Schedule 15. I understand the concern. However, there are many examples where customers incur monthly fees, the basis of which have little or nothing to do with actual usage. For example, counsel for OPC has compared the In-State Fee as analogous to the federally imposed subscriber line charge.[1] The same customer who has no in-state usage may as likely not have any interstate usage. Yet, the customer is required to pay a federal fee even though no interstate usage occurred. For that matter, the customer may not have used the telephone at all during the entire month. Using OPC's logic, presumably such customers should not receive a telephone bill at all. If all rates were based on "usage", all telephone service - including basic local service - should be priced as measured service. Minimum monthly charges, expanded calling scope charges, 911 charges, number portability charges, flat-rated toll calling plans, and Relay Missouri charges are all examples of fees placed on telephone bills which do not correlate to usage. Lack of such correlation does not automatically mean that a charge is unreasonable. The tendency within the industry to recover variable costs with flat rate charges is discussed on page 8 beginning at line 15 of Sprint witness Appleby's Direct Testimony. According to Mr. Appleby, such service offerings constitute "standard industry practice."

Q. Ms. Meisenheimer objects to In-State Fees in part because they apply only to residential customers, and not to business customers. How do you respond?

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[1] Transcript, page 41, line 2; October 31, 2001. Case No. TT-2002-129.

A. Business customers pay different rates than residential customers in virtually all facets of the telecommunications industry. Yet to my knowledge, the OPC has never taken the position that such rate design created undue rate discrimination. To the contrary, OPC has consistently advocated charging business customers higher rates in an effort to subsidize residential customers. Such rate disparity often results in business customers paying as much as two and a half times more for basic local telephone service than residential customers.[2]

Q. Ms. Meisenheimer also opposes the Fee because it applies on a flat-rate basis when access charges are charged to the long distance companies on a per-minute basis. According to Ms. Meisenheimer, the impact is that those customers who use less pay proportionally more. How do you respond?

A. There is simply nothing discriminatory in a rate structure that charges low volume customers proportionality more than high volume customers. Volume discounts are specifically authorized in section 392.200.5 RSMo and tariffs of Missouri long distance carriers routinely reflect price discounts given to volume users. Even at relatively low usage levels such as those shown in Ms. Meisenheimer's Schedule 15, there is, in my view, nothing discriminatory in rate plans that charge less as usage increases.

Q. Ms. Meisenheimer objects to the In-State Fees in part because the fees "effectively discriminate" against rural customers because the carriers who impose the fees choose not to provide local exchange telephone service in rural areas. How do you respond?

[2] See, for example, the local exchange "R1" and "B1" rates of Southwestern Bell Telephone Company in Missouri.

A. OPC's position in this case would penalize AT&T, MCI and Sprint for providing long distance service to all areas of Missouri. OPC's position fails to acknowledge the importance and consumer acceptance of service bundling in today's telephone environment. By criticizing the In-State Fees of AT&T, MCI and Sprint, OPC's position rewards the business practices of companies such as SBC Long Distance, who do not provide long distance service to any area outside of its affiliate's own service area, and who do not have to charge an In-State Fee because SBC Long Distance serves only its own affiliate's customers with long distance. OPC's position relies on an idea where consumers pick one company for local service, and another company for long distance service. OPC's position also relies on the presumption that robust competition will always occur in high cost areas, even in the absence of a Commission-mandated carrier of last resort obligation. Lastly, the OPC's position neglects to acknowledge the seemingly axiomatic preference of consumers to have only one telephone bill to pay, and only one telephone company to contend with.

OPC's position fails to recognize that traffic in non-Southwestern Bell service territories has been characterized by AT&T as simply "undesirable" and "uneconomical."[3] According to AT&T, most competitive carriers do not vigorously market their services in non-Bell rural areas. As with other aspects of its position in this case, the OPC simply neglects to acknowledge marketplace realities which find that AT&T, MCI, and Sprint provide long distance service to all areas of the state, and SBC Long Distance does not.

[3] Case No. TO-99-54, AT&T's Application for Rehearing paragraph 4; June 18, 1999.

Staff Response to OPC's Concerns of the Underlying Justification for the In-State Fee:

Q. How do you respond to the assertion that access charges should be recovered by long distance carriers on a per-minute basis because that is how local carriers choose to appropriate the costs?

A. As discussed by AT&T on page 6 of its November 13, 2001 Post Hearing Brief in this case, OPC has consistently advocated maintaining a policy of imposing high, per-minute access rates to recover non-traffic sensitive costs. Out of competitive necessity, long distance carriers must develop a rate structure that reduces the incentive for high volume customers to shop elsewhere. The In-State Fee does that. In-State Fees permit long distance carriers to recover access costs in the manner in which the costs are truly incurred. Long distance carriers do this to avoid unfairly penalizing toll users, especially high volume toll users, who implicitly subsidize low volume and no volume toll customers. Inflating per-minute rates forces these customers to pay a disproportionate amount relative to the actual cost of serving these customers. It is also the high volume residential toll customers that look to other technologies such as wireless or Internet long distance telephone companies because they are more economical than paying high per-minute charges.

In my opinion, such by-pass technologies are the main reason why access minutes of use continue to decline among Missouri's incumbent local exchange carriers. Declining access usage and the *reasons for* declining access revenues represent yet other marketplace realities the OPC seemingly does not fully recognize. In my view, use of an In-State cost recovery fee is less discriminatory than a continued reliance on the current access regime that recovers non-traffic sensitive costs through traffic sensitive, per-minute rates.

Q. Ms. Meisenheimer also objects to using the variance between in-state and interstate access rates as a basis for imposing the Fee. In her objections, Ms. Meisenheimer states:

> **Variance between instate and interstate access rates is an inappropriate basis for determining a reasonable cost based rate for the instate access charge because it fails to reflect that a substantial portion of interstate access costs are recovered by local exchange carriers through the Federal Subscriber Line Charge.**

Do you agree with Ms. Meisenheimer's characterization?

A. No, I do not. While it is true that local exchange carriers are recovering revenues lost due to federal access reform, this simple fact in no way mitigates the claim that Missouri's rates are still high in comparison to interstate and other state rates. As was indicated in the sworn testimony of AT&T's witness at the October 31, 2001 On-the-Record presentation, AT&T would not be charging the fee if Missouri's access rates were set to parity with the interstate rate.[4] Moreover, the highly confidential schedule JAA#3 in the Direct Testimony of Sprint witness Appleby shows the remarkable level of disparity between the national rate and Missouri's rate. While it is a fact that consumers and businesses do pay a federal subscriber line charge, this fact is of little solace to long distance carriers who pay rates in Missouri that are as much as 2,028 per cent higher than the interstate rate.

[4] See comments of AT&T economist Matt Kohly, Transcript, page 32, line 21.

Q. Ms. Meisenheimer states that it is inappropriate to compare in-state rates to interstate rates because a substantial portion of interstate access costs are recovered by local exchange carriers through the federal subscriber line charge. How do you respond?

A. Ms. Meisenheimer's opposition to the Fee is inappropriately focused on cost recovery of local exchange carriers, while ignoring cost recovery of long distance carriers. This case is not about cost recovery of local exchange carriers. This case is about cost recovery of interexchange carriers. In my view, focusing on cost recovery of local exchange carriers only serves to obfuscate the issue. In reality, each carrier has its own costs that must be recovered. Each carrier is appropriately using a flat rate to recover at least a portion of non-traffic sensitive costs ostensibly attributable to the local loop. OPC's position presumably would permit flat rate cost recovery for local exchange carriers, but deny such opportunity for interexchange carriers.

Although OPC criticizes the underlying justification for the Fee by inappropriately focusing on the cost of switched access, nevertheless I will comment on some of Ms. Meisenheimer's statements about Case No. TR-2001-65, the closed case that studied the cost of providing switched access service.

Q. Ms. Meisenheimer states that the "evidentiary record" in Case No. TR-2001-65 reveals that switched access in Missouri is "subsidy free" and that rates charged by local exchange carriers do not exceed stand-alone costs. Ms. Meisenheimer concludes by stating that if excessive switched access rates serve as the basis for the In-State Fee, there is "no justification for it." Do you agree with Ms. Meisenheimer's characterization of Case No. TR-2001-65?

A. No, I do not. I would first note that Ms. Meisenheimer's testimony in this area is completely void of citation, so it is difficult to understand what part of the record she is referring to. Secondly, discussions about stand alone costs are irrelevant to this case because competitive carriers in Missouri are free to establish prices irrespective of theoretical text book cost models. But to the extent the Commission may wish to explore Ms. Meisenheimer's testimony, it should be known that the record in Case No. TR-2001-65 reveals the following from staff witness Dr. Ben Johnson's testimony:

> Q. Can you briefly comment on the comparison of current [access] rates as a percent of costs?
>
> A. Yes, as shown on Schedule 3, many of the existing End Office Switching rates and Local Transport rates exceed the corresponding stand alone costs. Since stand alone costs are generally viewed as a rate ceiling, this result is somewhat surprising, and it suggests the need for substantial rate reductions, at lease in these two categories. When all of the different rate elements are totaled together, the comparison looks more reasonable. In total, the existing rates generally do not exceed stand alone costs, and thus one cannot say that IXCs are having to subsidize customers on an overall basis. However, some of the transport and switching rates currently exceed the corresponding stand alone costs, and thus IXCs paying these rates can be said to be subsidizing end user customers and other carriers.[5]

Dr. Johnson clearly expressed concerns with Missouri access rates in comparison with costs. In his conclusion he wrote: "Missouri intrastate rates are rather high, relative to costs. In fact, in some instances the switching and transport rates actually exceed our estimate of stand alone costs – which strongly suggests there is reason to be concerned that the existing rates may be higher than appropriate." [6]

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[5] Direct Testimony of Ben Johnson, PhD. Case No. TR-2001-65; page 126, lines 3-12
[6] Id. at page 136, lines 3-6

Q. Did Dr. Johnson compare Missouri intrastate rates with the rates Missouri carriers charge in the interstate jurisdiction?

A. Yes, he did. Dr. Johnson noted that intrastate rates were much higher than interstate rates. Dr. Johnson found that, at the time of the investigation, Southwestern Bell's intrastate rates were 946% of its interstate rates, Verizon's intrastate rates were 2,028% of its interstate rates, Sprint's intrastate rates were 1,159% of its interstate rates, AllTel's intrastate rates were 653% of its interstate rates, Century Tel's intrastate rates were 313% of its interstate rates, and, on the average, small incumbent local exchange carriers' intrastate rates were 654% of their interstate rates.[7]

Q. Did Dr. Johnson address OPC's concern about the federal subscriber line charge?

A. Yes. Since the Federal Communications Commission has been phasing out the carrier common line rate element in the interstate jurisdiction (and replacing it with the subscriber line charge Ms. Meisenheimer mentions), Dr. Johnson reviewed the individual components of interstate/intrastate access rates to account for this adjustment.

For end office switching, Dr. Johnson found the small incumbent local exchange carrier rates, on average, were 191% greater than interstate rates. For the large incumbent local exchange carriers, the switching rate element, on average, was 526% greater than interstate rates.

For transport, Dr. Johnson completed a rate comparison at five (5), twenty five (25), and seventy five (75) miles. At five miles, the intrastate rates ranged from 102% to 8,065% greater than the interstate rates. At twenty five miles, the intrastate rates

[7] Id. at page 130, lines 7-14

averaged from 103% to 3,521% greater than the interstate rates. Finally, at seventy five miles, on average, the small incumbent local exchange carriers' intrastate rates exceeded interstate rates by 158%, while the large incumbent local exchange carriers' intrastate rates exceeded interstate rates by an average of 273%.[8]

Q. Did Dr. Johnson compare Missouri intrastate rates to the rates in other jurisdictions?

A. Yes, he did. Dr. Johnson obtained rates from 44 states with rate components similar to Missouri. Dr. Johnson noted that Missouri rates were generally higher than other states for the large incumbent local exchange carriers. The total rates from other states ranged from $0.0029 to $0.0998, with an overall average of $0.0240.[9] During the same time period, the total rates, excluding tandem switching, for Missouri ranged from $.0658 to $.0970.[10] Dr. Johnson also compared the average rates from other states to the average rates of the small incumbent local exchange carriers, but cautioned that this was a comparison of large incumbent local exchange carriers in other states to small incumbent local exchange carriers in Missouri. Therefore, I will not go into detail on that comparison.

Q. Would you please summarize the basis of Staff's opposition to the position taken by the Office of Public Counsel in this case?

A. The fundamental difference between the Staff and OPC in this case is one of philosophy. The OPC would object to any fee to recover In-State access rates paid by long distance carriers in Missouri; the Staff would only begin to question the

[8] Id. at page 130, line 7 through page 133, line 19.
[9] Id. at page 134, lines 3 through 10.
[10] Id. at Schedule 2, page 1 of 9.

reasonableness of the Fee when it reached a level unsupported by access rate differentials. In my view, it is certainly understandable for the OPC to advocate the lowest possible rate for consumers. I also understand and support the need for as much clarity of telephone bills as possible, and I openly acknowledge that additional fees make comparative shopping more difficult. However, these matters must be balanced with market realities. In my view, the OPC's position neglects to acknowledge the fundamental market reality that access rates in Missouri are extremely high and, more importantly, that the primary way carriers have to avoid the charges is simply to avoid serving high cost areas. In my view, OPC's position in this matter would penalize carriers who choose to serve high cost areas, and reward carriers who choose to serve only low cost areas. Ms. Meisenheimer understandably wants consumers to have it both ways. But I am unconvinced that penalizing the few carriers who choose to serve state-wide is the most appropriate course of action on behalf of consumers, especially in the long run.

OPC's position also discounts the market reality of cost recovery and of competitive choice for consumers. As covered in the Direct Testimony of ATT witness Rhinehart, if consumers want to avoid the In-State Fee, they may choose the AT&T One Rate Simple plan which does not have an In-State Fee. However, the per-minute rate is $0.29. Choosing such a plan sufficiently addresses the OPC's concern with the access cost recovery issue. Thus, consumers can currently choose either a plan with low rates that has a fee, or a plan with higher rates but no fee. However, the OPC presumably believes consumers should always have it both ways. That is to say, the OPC appears to believe the only choice available to consumers should be one of low rates and no fees. In my view, such an approach really doesn't acknowledge market realities.

Both Staff and the OPC agree that, to the extent permitted by statute, at some point the Commission should apply a reasonableness standard to the rate structures of any and all telephone rate plans. The differences between Staff and the OPC in this case appear to be simply a matter of degree. It is the Staff position that consumers should be able to choose from among the many plans available in a competitive market, including those with lower rates but with an additional fee. It appears to be the OPC's position that the government should take a more active role in establishing limitations on what consumers are able to choose in a competitive market. In my view, this is the fundamental difference between the Staff's and OPC's position in this case.

Q. Does this conclude your Surrebuttal Testimony?

A. Yes, it does.