

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

In the matter of Neutral Tandem-Missouri, LLC's)	
Filing to Introduce Its Access Services Tariff)	File No. TT-2010-0099
PSC MO No. 3.)	Tariff No. JX_2010-0151

STAFF RESPONSE AND RECOMMENDATION

COMES NOW the Staff of the Missouri Public Service Commission and for its response and recommendation states:

1. On September 18, 2009, AT&T Communications of the Southwest, Inc., and Southwestern Bell Telephone Company, d/b/a AT&T Missouri (collectively, AT&T), filed a motion requesting that the Commission suspend and investigate the access services tariff (Tariff No. JX-2010-0151) submitted by Neutral Tandem-Missouri, LLC, on September 8, 2009, with an effective date of October 8, 2009. The tariff effective date has been extended and is presently scheduled to become effective on December 31, 2009.

2. The Staff recommends that the tariff be approved without suspension or further proceedings in this matter (See Attachment A). The Staff believes that the addition of competitive tandem switches in Missouri will further the Commission's goals of competition in the provision of telecommunications services in the State of Missouri.

3. Although the tariffs reflect that the competitive tandem switches will be used for telecommunications service throughout the state, Neutral Tandem's certificate is not statewide. Therefore, the Staff recommends that the Commission note in its Order that Neutral Tandem may not provide service in a given exchange until it is certificated to do so. As the Staff expects that the extension of Neutral Tandem's certificate can be handled expeditiously, it recommends that the Commission not wait to approve the tariffs until the certificate is expanded and believes that the language noted above will be sufficient.

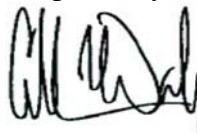
4. The Staff recommends that the Commission include in its Order language allowing a variance from one of the conditions imposed on Neutral Tandem (and every CLEC) in its certificate. In order to allow for full and fair competition, the Commission, since the late 1990's, has required in its certification orders that competitive telecommunications service carriers cap their access rates for any given exchange to the

access rate of the incumbent service carrier of that exchange. Until recently, this has meant that competitive carriers have had three access rates corresponding to the access rates of the three large incumbent carriers in whose territories they compete. Recently, however, competition has expanded to include the territories of the approximately 40 small incumbent carriers, who have their own access rates. Neutral Tandem seeks to charge a single access rate in all territories not served by large incumbents that is equal to the rate charged by CenturyTel. This rate is lower than the vast majority of small incumbents' access rates, but it is slightly higher than that of nine small incumbents. The Staff believes, as this technically violates the Commission's Order certifying Neutral Tandem, that the Commission's Order in this case should specifically acknowledge and permit the access charges in various exchanges as Neutral Tandem proposes in its tariff. The Staff believes this approach is a reasonable way to simplify the charges assessed by Neutral Tandem without permitting it to charge a price that would disadvantage other carriers.

5. The Staff has reviewed the filings of AT&T and finds they are without legal merit. Except as discussed above, the Staff is not aware of any statutory provision, Commission rule or Commission order that is violated by Neutral Tandem's proposed tariffs. To the extent practicable, the Staff has questioned Neutral Tandem about its plans and sought assurances that the company will conduct its business in accordance with Missouri law and regulations, especially the Commission's Enhanced Record Exchange Rule, which governs the trunking, transiting and recording of telecommunications traffic on behalf of and between carriers.

WHEREFORE, the Staff recommends that the Commission approve by Order the tariffs on file in this matter, state in that Order that Neutral Tandem shall not conduct business in any exchange in which it is not certificated, even if the tariff proves a rate for service in that exchange and state in the Order that the restriction on access charges that caps the rate at the incumbent carrier's access rate be modified to allow Neutral Tandem to charge the single proposed rate in all small incumbent carrier exchanges, including those nine service territories whose access rates are below the proposed rate.

Respectfully submitted,



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Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 16th day of December, 2009.



MEMORANDUM

To: Missouri Public Service Commission Case File
Case Number TT-2010-0099; *In the Matter of Neutral Tandem-Missouri, LLC's Filing to Introduce Its Access Services Tariff, PSC Mo. No. 3*

From: William Voight
Supervisor, Rates and Tariffs
Telecommunications Department

Subject: Tariff File No. JX-2010-0151
Staff Recommendation to Approve Tariff and
Deny AT&T's Motion to Suspend

Date: December 16, 2009

Synopsis: This memorandum recommends the Commission approve Neutral Tandem's tariff proposal, and deny AT&T's Motion to Suspend.

Background: On September 9, 2009, Neutral Tandem-Missouri L.L.C. (Neutral Tandem) filed its PSC Mo. No. 3 Tariff, proposing to introduce intrastate access service. On December 11, 2009, the Commission directed the Staff to file a recommendation no later than December 18th stating whether it has any opposition to the tariff, and whether it believes any additional investigation is necessary.

On September 18th, a Motion to Suspend and Investigate Neutral Tandem's proposal was filed by AT&T Communications of the Southwest, Inc., and Southwestern Bell Telephone Company, d/b/a AT&T Missouri (AT&T). Subsequent to AT&T's Motion, Neutral Tandem extended the tariff effective date until December 11th, and requested the Commission hold this matter in abeyance. Pursuant to numerous legal and regulatory matters discussed with the Telecommunications Department Staff (Staff), on December 7th, Neutral Tandem amended its filing by substituting 33 of the 69 original pages comprising its proposed tariff.

Discussion: Switched access services are provided by local exchange telecommunications carriers, such as Neutral Tandem, to interexchange telecommunications carriers, such as AT&T Communications of the Southwest, Inc. Switched access rates, terms, and conditions are governed by Commission-approved tariffs, and are subject to certain limitations pursuant to both the Commission-imposed conditions placed on Neutral Tandem's certificate to provide basic local service, and by the revised statutes of Missouri (Sub Section 392.361.6).

Rate caps for switched access service have been applied by the Commission as a condition of certification to all competitive local exchange carriers in Missouri. On November 10, 2005 the Commission placed a cap on Neutral Tandem's switched access rates in its Order Granting Certificate to Provide Basic Local Telecommunications Services in Case No. CA-2006-0035. Subject to certain criteria, the Order granted Neutral Tandem authority to provide local telephone service in Missouri. The switched access rate cap was stated in ordered paragraph 3 as follows:

....Neutral Tandem-Missouri, LLC shall have originating and terminating access rates no greater than the lowest Commission-approved corresponding access rates in effect for each incumbent local exchange company (ILEC) within whose service area [it] seeks authority to provide service, unless authorized by the Commission pursuant to sections 392.220 and 392.230 RSMo 2000.

Neutral Tandem's proposed switched access rates are compared with the incumbent local exchange carriers' rates as follows:

Incumbent Area	Neutral Tandem's Proposed Rates
AT&T (SWBT) areas	Same as AT&T
CenturyLink (Embarq) area	Same as CenturyLink (Embarq)
All Other I-LEC areas	Same as CenturyTel of Missouri, Inc.

In its Order Approving Tariff in the instant case, the Staff recommends that the Commission include language allowing a variance from one of the conditions imposed on Neutral Tandem (and every CLEC) in its certificate. In order to allow for full and fair competition, the Commission, since the late 1990's, has required in its certification orders that competitive telecommunications service carriers cap their access rates for any given exchange to the access rate of the incumbent service carrier of that exchange. Until recently, this has meant that competitive carriers have had three access rates corresponding to the access rates of the three large incumbent carriers in whose territories they compete. Recently, however, competition has expanded to include the territories of the approximately 40 small incumbent carriers, who have their own access rates. Neutral Tandem seeks to charge a single access rate in all territories not served by large incumbents that is equal to the rate charged by CenturyTel of Missouri. This rate is lower than the vast majority of small incumbents' access rates, but it is slightly higher than that of nine small incumbents. The Staff believes, as this technically violates the Commission's Order certifying Neutral Tandem, that the Commission's Order in this case should specifically acknowledge and permit the access charges in various exchanges as Neutral Tandem proposes in its tariff. The Staff believes this approach is a reasonable way to simplify the charges assessed by Neutral Tandem without permitting it to charge a price that would disadvantage other carriers.

Recommendation: The Staff has reviewed Neutral Tandem’s proposal, as amended, and recommends it be approved. The Staff has worked with Neutral Tandem to address numerous concerns raised by both the Staff and AT&T. Most significantly, Neutral Tandem’s revised tariff: (1) acknowledges the application of Missouri’s Enhanced Record Exchange rules and the Ordering and Billing Forum’s (OBF’s) Multiple Exchange Carrier Access Billing (MECAB) Guidelines (tariff sheet 45); (2) acknowledges definitions of local and access telephone traffic that Staff believes are consistent with standard industry operating procedures in Missouri (tariff sheets 6 – 13); and, (3) acknowledges AT&T’s November 13th concern that Neutral Tandem adhere to LATA restrictions as defined both in I-LECs’ switched access tariffs and MECAB (tariff sheet 45).

The only remaining concern that appears unaddressed by Neutral Tandem’s revised tariff proposal is AT&T’s statement that it will “cost” AT&T more. In the Staff’s opinion, the unsubstantiated claim that something *might* cost more is insufficient reason to deny Neutral Tandem’s proposal. In the Staff’s view, AT&T has not shown that Neutral Tandem’s proposal conflicts with any law or rule. The Staff does not believe any further investigation is necessary. Therefore, the Staff recommends the Commission approve the filing as amended, and further deny AT&T’s Motion to Suspend.

The specific tariff sheets recommended for approval are:

Neutral Tandem-Missouri, LLC
PSC Mo. No. 3
Original Title Page and Original Tariff Pages 1 through 69

The Staff is unaware of any other matter that affects, or that would be affected by this matter. Neutral Tandem is not delinquent in any MoPSC reporting requirements; Neutral Tandem filed its MoPSC 2008 annual report on April 17, 2009.

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


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Case No. TT-2010-0099

AFFIDAVIT OF William Voight

STATE OF MISSOURI)
) ss:
COUNTY OF COLE)

William Voight, employee of the Missouri Public Service Commission, being of lawful age and after being duly sworn, states that he has participated in preparing the accompanying Staff recommendation and that the facts therein are true and correct to the best of his knowledge and belief.



WILLIAM VOIGHT

Subscribed and affirmed before me this 11th day of December 2009



NOTARY PUBLIC

