

**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, et al.**

**DISSENTING OPINION OF COMMISSIONERS STEVE GAW AND  
ROBERT M. CLAYTON III**

By its Report and Order in the above-captioned docket, the majority has permitted several long distance telecommunications companies to create, or increase the amount of, instate access recovery fees and surcharges for certain long distance customers. In its Order the majority determines that, due to recent legislation, the "just and reasonable" provisions of Section 392.200.1 are no longer applicable to competitive companies. Furthermore, the majority disregarded Public Counsel's assertions that these charges fail to comply with the anti-discrimination provisions of Sections 392.200.2 and 392.200.3. Without addressing the legality of the proposed charges, we must dissent on the basis that the proposed charges constitute poor public policy and will inevitably lead to customer confusion.

On August 9, 2005, the Commission promulgated 4 CSR 240-33.045 which requires clear identification and placement of separately identified charges on customer bills.<sup>1</sup> This rule was proposed and ultimately promulgated because of heightened customer confusion over the increasing number and nature of charges appearing on the customer's telecommunications bill. By passing this rule, it was these commissioners' hope that telecommunications companies would be forced to eliminate the multitude of separate charges that appear on the bill thereby making it easier for consumers to compare prices for plans from different companies. Instead the

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<sup>1</sup> The rule was subsequently published in the Missouri Register and became effective on October 30, 2005.

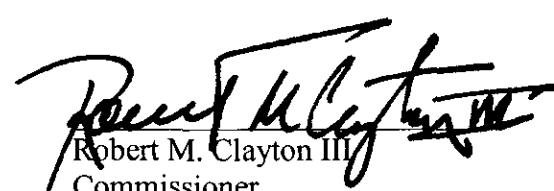
Commission watered down the consumer protection provisions proposed. The rule as passed, however, does not preclude this Commission from denying the use of billing methods that serve to mislead customers. It is not good policy to allow AT&T to place a surcharge on the bills for "access fees" without any correlation between the fee charged to the customer and the customer cost causation relating to access. It is also a concern that it is not clear that the amount charged to all customers reflects the particular charges incurred by the company. Furthermore, having an additional fee outside the rate charged for the service, makes the companies rate for the service appear less than it actually is. This Commission should not be a partner in this deceptive result.

As we have stated, placing these charges outside of base rates allows a company to mislead customers into believing that the rates are less than the actual rates being billed. On the other hand, including such charges in base rates would allow customers to better compare telecommunications packages between competing companies on an apples to apples basis and would have helped to decrease the confusion experienced by these customers every time they open a telephone bill. Because this Order supports adding yet another surcharge on consumers' telephone bills, we must respectfully dissent.

Respectfully Submitted



Steve Gaw  
Commissioner



Robert M. Clayton III  
Commissioner

Dated at Jefferson City, Missouri,  
on this 29th day of December, 2005.