

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

In the Matter of the Review of the Competitive)
Classification of the Exchanges of Southwestern)
Bell Telephone, L.P., d/b/a AT&T Missouri)

Case No. TO-2007-_____

STAFF REPORT

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

1. Section 392.245.5 RSMo (2005 Cum. Supp.) provides an expedited two-track procedure when a price-cap regulated incumbent local exchange company seeks competitive classification for its services within one or more exchanges. The two procedures are designed as a 30-day track and a 60-day track.

2. In Case No. TO-2006-0093, the Commission's Corrected Report and Order granted AT&T Missouri competitive classification for business services for 45 exchanges and for residential services for 26 exchanges under the 30-day track.¹ In Case No. TO-2006-0102, the Commission's Report and Order granted AT&T Missouri competitive classification for business services for 30 exchanges and for residential services for 51 exchanges under the 60-day track.

3. In Tariff File No. JI-2006-0638, AT&T Missouri increased the monthly rates for business basic local telecommunications service in its Rate Group B and larger competitively classified exchanges. The increase was one dollar for all rate groups. In Tariff File No. JI-2007-0011, AT&T Missouri increased the monthly rates for residential basic local telecommunications service in its Rate Group B and larger competitively classified exchanges. The increase varied

¹ In Case No. IN-2006-0232, the Commission recognized the change of the fictitious name of Southwestern Bell Telephone, L.P. from "SBC Missouri" to "AT&T Missouri."

among the different rate groups and ranged from approximately 4.8% to approximately 19%.

4. Section 392.245.5 directs:

The commission shall, at least every two years, or where an incumbent local exchange telecommunications company increases rates for basic local telecommunications services in an exchange classified as competitive, review those exchanges where an incumbent local exchange carrier's services have been classified as competitive, to determine if the conditions of this subsection for competitive classification continue to exist in the exchange and if the commission determines, after hearing, that such conditions no longer exist for the incumbent local exchange telecommunications company in such exchange, it shall reimpose upon the incumbent local exchange telecommunications company, in such exchange, the provisions of paragraph (c) of subdivision (2) of subsection 4 of section 392.200 and the maximum allowable prices established by the provisions of subsections 4 and 11 of this section, and, in any such case, the maximum allowable prices established for the telecommunications services of such incumbent local exchange telecommunications company shall reflect all index adjustments which were or could have been filed from all preceding years since the company's maximum allowable prices were first adjusted pursuant to subsection 4 or 11 of this section.

5. In the attached verified Memorandum, the Staff discusses its review of the conditions for continued competitive classification for all of AT&T Mo's competitively classified exchanges. In Staff's opinion, competitive conditions continue to exist in all of AT&T Missouri's competitively – classified exchanges.

WHEREFORE, the Staff requests the Commission to make AT&T Missouri a party to this case, to provide AT&T Missouri the opportunity to file a response to the Staff Report, to issue a notice providing interested entities an opportunity to intervene, and to review if the conditions for competitive classification continue to exist for all of AT&T Missouri's competitively classified exchanges.

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 the following counsel this 8th day of August 2006.

/s/ William K. Haas

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Memorandum

To: Official Case File
Case No.

From: John Van Eschen
Telecommunications Department

Date: August 7, 2006

Subject: Staff's review of whether competitive conditions continue to exist

Competitive classification was granted to Southwestern Bell Telephone, L.P. d/b/a AT&T Missouri (formally known as Southwestern Bell Telephone, L.P., d/b/a SBC Missouri) in 75 exchanges for business services and 77 exchanges for residential services in the fall of 2005. Since obtaining competitive classification for these exchanges, AT&T Missouri has increased rates for basic local telecommunications service in certain exchanges. Section 392.245.5(6) states, "...[T]he commission shall, at least every two years, or where an incumbent local exchange telecommunications company increases rates for basic local telecommunications services in an exchange classified as competitive, review those exchanges where an incumbent local exchange carrier's services have been classified as competitive, to determine if the conditions of this subsection for competitive classification continue to exist in the exchange..." The purpose of this memorandum is to reveal the results of the Commission Staff's review of whether competitive conditions continue to exist in the exchanges where rates were increased. In brief, Staff's review reveals competitive conditions continue to exist in all exchanges.

Competitive classification was granted to certain AT&T Missouri exchanges in two separate proceedings. On September 26, 2005, the Commission issued a Corrected Report and Order for Case No. TO-2006-0093, In the Matter of the Request of Southwestern Bell Telephone, L.P., d/b/a SBC Missouri, for Competitive Classification Pursuant to Section 392.245.6, RSMo (2005) – 30-day Petition. In that decision, the Commission granted competitive classification for business services in 45 exchanges. In addition, the Commission granted competitive classification for residential services in 26 exchanges. In response to the 30-day Petition, the Commission granted competitive status based on the presence of at least one non-affiliated CLEC providing local voice service in whole or in part over facilities in which it or one of its affiliates has an ownership interest and the presence of at least one non-affiliated wireless carrier.

On October 25, 2005, the Commission issued a Report and Order for Case No. TO-2006-0102, In the Matter of the Request of Southwestern Bell Telephone, L.P., d/b/a SBC Missouri, for Competitive Classification Pursuant to Section 392.245.6, RSMo (2005) – 60-day Petition. In that decision the Commission granted competitive classification for business services in 30 exchanges. In addition, the Commission granted

competitive classification for residential services in 51 exchanges. In response to the 60-day Petition the Commission granted competitive status based on the presence of at least one non-affiliated wireless carrier plus one or more of the following three criteria: (1) the presence of at least one non-affiliated CLEC providing local voice service in whole or in part over facilities in which it or one of its affiliates has an ownership interest, (2) the presence of at least one provider offering VoIP service using an unaffiliated cable television company's broadband network, (3) the presence of at least one non-affiliated entity providing local voice service using the telecommunications facilities or other facilities of a third party, including those of the incumbent local exchange company as well as providers that rely on an unaffiliated third-party Internet service.

After receiving competitive status, AT&T Missouri increased basic local telecommunications service rates in two different tariff filings. In Tariff File No. JI-2006-0638 AT&T Missouri increased the basic local telecommunications service rates for business customers in competitively classified exchanges. These rate increases became effective on March 3, 2006. Later, AT&T Missouri filed Tariff File No. JI-2007-0011. This filing increased residential basic local telecommunications service rates for certain competitively classified exchanges. Tariff File No. JI-2007-0011 was also assigned Case No. IT-2007-0027, In the Matter of the Tariff of Southwestern Bell Telephone, L.P., d/b/a AT&T Missouri, Repricing Residential Services in Certain Exchanges Designated as Competitive Pursuant to Section 392.245.6, RSMo 2000 (as Amended 2005). The Commission, by a vote of 2-2, failed to suspend the tariff and the tariff went into effect by operation of law on July 21, 2006.

The Timing and Scope of the Review

The review of whether competitive conditions continue to exist in AT&T Missouri exchanges marks the first time Staff has undertaken such a review for any company. Consequently, Staff is uncertain as to the frequency and scope of review anticipated by the Commission. Staff anticipates the Commission will provide Staff with further guidance and expectations for these reviews if the Commission disagrees with Staff's review process and recommendations.

One issue of uncertainty is simply the timing for conducting this review. The statutes clearly indicate that the review will be conducted "...at least every two years..."; however the statute also states, "...or where an incumbent local exchange telecommunications company increases rates for basic local telecommunications services in an exchange classified as competitive..." Some parties may contend that such a review should have been conducted after AT&T Missouri increased rates for business customers on March 3, 2006. Such a review, if conducted, would have been performed less than six months after the Commission's initial determination that competitive exists in certain AT&T Missouri exchanges. Since annual reports are due April 15 of each year, Staff thought it appropriate to wait for more current information than available in the 30- and 60-day cases.

Although Staff could conduct a review as frequently as required by the Commission, Staff recommends the Commission simply conduct such a review once a year, regardless of whether a company has increased rates for a competitive exchange. This recommendation could be conditioned upon an expectation that at least one company with competitive status for an exchange will increase rates during a given year. From Staff's perspective it will not take much additional work for Staff to simultaneously conduct its review for all companies with competitive exchanges. If no company with competitive exchanges increases rates for basic local service during a year then it might be reasonable to not conduct such a review for that year but simply ensure a review is conducted every two years. Such a procedure would require monitoring previously completed competitive review updates to ensure that a review would be conducted at least every two years. In that respect, an expectation that an annual review will be conducted for all companies regardless of whether rates have increased might be the easiest to administer.

In this initial review Staff recommends a limited analysis of whether competitive conditions continue to exist. Staff is unaware of any conditions changing the presence of a qualifying wireless carrier in an AT&T Missouri competitive exchange. For example, Staff is unaware of any wireless provider withdrawing service from any exchange. Moreover Staff is unaware of any changed conditions that would make it a toll call to reach a wireless subscriber residing in the same exchange. Verification of such statements is best accomplished through the somewhat difficult process of obtaining direct verification from wireless providers. Many wireless carriers are reluctant to provide the verification since they are not subject to the Commission's jurisdiction or parties to the case. Should the Commission want to review such information in the future, Staff recommends the Commission direct Staff to obtain affidavits from the wireless carriers. Such a directive will provide Staff justification for requesting the information. Staff recommends the competitive local exchange company annual report information be the primary source for determining whether competitive conditions continue to exist for the review of the status of competitive classification. The CLEC annual reports identify the number of voice-grade equivalent lines provided on an exchange-specific basis as of December 31 of each year.

In Case Nos. TO-2006-0093 and TO-2006-0102, Staff relied upon, and the Commission accepted, information supplied in the CLEC 2004 annual reports. The current analysis relied upon information provided in the 2005 annual reports. In this regard the 2005 annual report information provides updated information regarding the status of competition in these exchanges.

The cumulative results of all CLEC annual reports have been organized into four separate appendices. Each competitively classified AT&T Missouri exchange is placed into one of these four appendices based on whether competitive status pertains for residential or business services and whether competitive status was granted under the 30-day petition or the 60-day petition. Each appendix identifies the cumulative number of lines and the cumulative number of providers of local voice service based on full facility/partial facility arrangements as well as other resale arrangements. These

underlying service arrangements are selected because they were used as part of the criteria in the 60-day petition. Line and provider quantities for pure resale arrangements and data/ISP-only arrangements are not shown in the appendices because they were not relevant in either the 30-day petition or the 60-day petitions. These appendices also show the rate group for the exchange and whether AT&T Missouri increased the local service rate within the exchange. Each of these appendices will be examined individually.

In the attached appendices, the CLEC annual report line quantities are categorized based on various underlying service arrangements. The following types of CLEC service arrangements were scrutinized because the arrangements qualified exchanges for competitive status under the broader qualifying criteria described in Case No. TO-2006-0102: (1) A “Full Facility” arrangement refers to a service arrangement where the CLEC or its affiliate owns the switch and the local loop. (2) A “Partial Facility” arrangement refers to a service arrangement where the CLEC or its affiliate owns either the switch or the local loop, but not both. (3) An “Other Resale” arrangement refers to a service arrangement where the CLEC leases all facilities from the incumbent local telephone company at a negotiated or arbitrated rate that is not a discount off the incumbent’s retail tariffed rate(s). Examples include UNE-P arrangements or arrangements purchased by a commercial agreement.

Residential Competitive (60-day) Exchanges (Appendix A)

Appendix A identifies the 51 exchanges granted competitive status for residential services in Case No. TO-2006-0102. This appendix shows whether the exchange is served by any CLEC on a full facility, partial facility or other resale basis by showing the cumulative number of lines and providers. A provider is quantified if it is serving at least one line under such arrangements within the exchange. As can be shown in this appendix, all 51 exchanges appear to have multiple providers of local voice service who are providing service under these arrangements. In this respect, Staff concludes competitive conditions continue to exist in these 51 exchanges for residential services.

Business Competitive (60-day) Exchanges (Appendix B)

Appendix B identifies the 30 exchanges granted competitive status for business services in Case No. TO-2006-0102. This appendix shows whether the exchange is served by any CLEC on a full facility, partial facility or other resale basis by showing the cumulative number of lines and providers. A provider is quantified if it is serving at least one line under such arrangements within the exchange. As can be shown in this appendix, all 30 exchanges appear to have multiple providers of local voice service who are providing service under these arrangements. In this respect, Staff concludes competitive conditions continue to exist in these 30 exchanges for business services.

Business Competitive (30-day) Exchanges (Appendix C)

Appendix C identifies the 45 exchanges granted competitive status for business services in Case No. TO-2006-0093. This appendix shows whether the exchange is

served by any CLEC on a full facility, partial facility or other resale basis by showing the cumulative number of lines and providers. A provider is quantified if it is serving at least one line under such arrangements within the exchange. In contrast to the 60-day proceedings in Case No. TO-2006-0102, competitive status was granted to an exchange in Case No. TO-2006-0093 based on the existence of competition from a CLEC using a full facility or partial facility arrangement. As can be shown in this appendix, 44 exchanges appear to have multiple providers of local voice service who are providing service under a full facility or partial facility arrangement.

This appendix does not show any providers or lines being served on a full facility or partial facility basis for the Marble Hill exchange. Staff has contacted the CLEC cited in the records of Case No. TO-2006-0093 as the justification for granting competitive status for business service in Marble Hill. In addition, Staff has contacted AT&T Missouri for information as to whether it is providing switching and local loop facilities to this CLEC in the Marble Hill exchange. In response to Staff's request, both parties indicated they will look into the matter. AT&T Missouri responded and produced information indicating that telephone numbers assigned to the exchange are currently being ported to the CLEC. In this instance AT&T Missouri is not providing the switching facilities on behalf of the CLEC for certain Marble Hill exchange telephone numbers. The porting information indicates telephone numbers are being routed to the CLEC's switch. In addition, AT&T Missouri has highlighted two telephone numbers that through other AT&T Missouri records indicates the numbers had been serving business customers. Based on all of this information, Staff is reasonably satisfied that the CLEC mistakenly categorized certain lines in the Marble Hill exchange as other resale lines and such lines would more appropriately be classified as full or partial facility arrangements. Nevertheless Appendix C still shows zero business lines served on a full or partial facility basis for the Marble Hill exchange since all of the appendices simply identify the cumulative line totals as reported by CLECs.

The Clever exchange might be questioned by some Commissioners because this exchange shows only one line is served by a CLEC on a full facility or partial facility basis. The Commission's decision in Case No. TO-2006-0093 does not clearly identify an expectation that a CLEC serve multiple customers within an exchange; however, such an expectation is perhaps implied in other Commission decisions involving competitive requests involving other companies. For example in the Commission's October 4, 2005 Report and Order for Case No. IO-2006-0108, In the Matter of Spectra Communications Group, LLC, d/b/a CenturyTel's Request for Competitive Classification Pursuant to Section 392.245.5, RSMo (2005), the Commission states, "...Thus, for any exchange for which Spectra seeks competitive classification of either residential or business basic local services, Spectra must show (1) that there are at least two competitors in the exchange, (2) each of which is currently providing basic local services, (3) to at least two customers of the requisite sort." In this regard, the Commission may want to re-evaluate whether competitive conditions continue to exist in the Clever exchange.

If the Commission still has reservations about either exchange, Staff notes the Marble Hill and Clever exchanges may meet the competitive criteria of a 60-day

proceeding in that both exchanges have multiple CLEC providers providing service on an “other resale” basis. As previously discussed, other resale arrangements include UNE-P arrangements or arrangements purchased by a commercial agreement. The existence of competition from a CLEC providing service using such arrangements was a qualifying factor for Case No. TO-2006-0102 but not for Case No. TO-2006-0093. Another factor in determining whether the Commission should re-evaluate whether competitive conditions continue to exist is that AT&T Missouri did not increase the business local service rates for either the Clever or Marble Hill exchanges. In this regard, it does not appear additional action is required at this time.

Residential Competitive (30-day) Exchanges (Appendix D)

Appendix D lists the 26 exchanges where competitive status has been granted for residential services in Case No. TO-2006-0093. This appendix shows whether the exchange is served by any CLEC on a full facility, partial facility or other resale basis by showing the cumulative number of lines and providers. A provider is quantified if it is serving at least one line under such arrangements within the exchange. In contrast to the 60-day proceedings in Case No. TO-2006-0102, competitive status was granted to an exchange in Case No. TO-2006-0093 based on the existence of competition from a CLEC using a full facility or partial facility arrangement. As can be shown in this appendix, 24 exchanges appear to have multiple providers of local voice service who are providing service under a full facility or partial facility arrangement.

Appendix D does not show any CLEC providers or lines being served on a full facility or partial facility basis in the Farmington or Washington exchanges. AT&T Missouri did increase the local service rates for Farmington and Washington residential customers. Staff has contacted the CLEC cited in the records of Case No. TO-2006-0093 as the justification for granting competitive status for residential service in both exchanges. In addition, Staff has contacted AT&T Missouri for information as to whether it is providing switching and local loop facilities to this CLEC in these exchanges. In response to Staff’s request, both parties indicated they will look into the matter. AT&T Missouri responded and produced information indicating that telephone numbers assigned these exchanges are currently being ported to the CLEC. In this instance AT&T Missouri is not providing the switching facilities on behalf of the CLEC for certain Farmington and Washington exchange telephone numbers. The porting information indicates telephone numbers are being routed to the CLEC’s switch. In addition, AT&T Missouri has highlighted two telephone numbers that through other AT&T Missouri records indicates the numbers had been serving residential customers. Based on all of this information, Staff is reasonably satisfied that the CLEC mistakenly categorized certain lines in the Farmington and Washington exchanges as other resale lines and such lines would more appropriately be classified as full or partial facility arrangements. Nevertheless Appendix C still shows zero business lines served on a full or partial facility basis for both exchanges since all of the appendices simply identify the cumulative line totals as reported by CLECs.

If the Commission still has reservations about either exchange, Staff notes that both exchanges may meet the competitive criteria of a 60-day proceeding. Both exchanges have multiple CLEC providers providing service on an “other resale” basis which qualified certain exchanges for competitive status in Case No. TO-2006-0093.

Summary

Staff recommends this type of review be conducted annually regardless of whether a company increases rates. Staff’s review found that competitive conditions continue to exist in essentially all exchanges that were granted competitive status in Case Nos. TO-2006-0093 and TO-2006-0102. A review of Appendix C suggests competitive conditions may not exist for business services in the Marble Hill exchange; however information supplied to Staff by AT&T Missouri suggests otherwise. Appendix C may also suggest competitive conditions may not continue to exist for business services in the Clever exchange if the Commission maintains that an individual CLEC must serve more than one customer in an exchange in order to trigger competitive classification. Local service rates were not increased for business customers in either the Marble Hill or Clever exchanges. A review of Appendix D suggests competitive conditions may not exist for residential services in the Farmington and Washington exchanges; however information supplied to Staff by AT&T Missouri suggests otherwise. Staff found AT&T Missouri’s information to be a reasonable basis for concluding competitive conditions continue to exist in the Marble Hill, Farmington and Washington exchanges. For the reasons stated in this memorandum Staff is of the opinion competitive conditions continue to exist in all of AT&T Missouri exchanges with competitive classification.

Appendix A

Appendix B

Appendix C

Appendix D

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

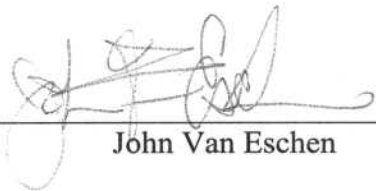
In the Matter of the Review of the)
Competitive Classification of the)
Exchanges of Southwestern Bell)
Telephone, L.P., d/b/a AT&T Missouri)

Case No. TO-2007-

AFFIDAVIT OF JOHN VAN ESCHEN

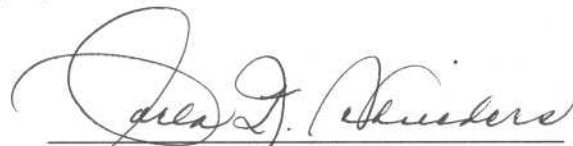
STATE OF MISSOURI)
) ss
COUNTY OF COLE)

John Van Eschen, Manager of the Missouri Public Service Commission's Telecommunications Department, of lawful age, on his oath states that he has participated in the preparation of the following memorandum and appendices and that the facts therein are true and correct to the best of his knowledge and belief.



John Van Eschen

Subscribed and sworn to before me this 7th day of August, 2006.



Notary Public

My commission expires June 7, 2008

