

At a session of the Public Service Commission held at its office in Jefferson City on the 23rd day of February, 2006.

ORDER APPROVING STIPULATION AND AGREEMENT
AND ORDER DIRECTING FILING

Effective Date: February 28, 2006

On December 22, 2005, the Office of the Public Counsel, AT&T Missouri, and the Staff of the Missouri Public Service Commission filed a Stipulation and Agreement. None of the intervenors signed the agreement, but according to Commission rule 4 CSR 240-2.115(2)(C), if no party objects, the Commission may treat a stipulation and agreement as a unanimous stipulation and agreement. No party has objected regarding any issue and, therefore, the Stipulation and Agreement will be treated as a unanimous stipulation and agreement.

The parties agreed that the Beaufort, St. Clair, Union, and Washington exchanges will be added to the current Tier 5 of the St. Louis Metropolitan Calling Area (MCA) Plan. MCA service for the four AT&T Missouri exchanges would be optional and

would cost \$32.50 for residential customers and \$70.70 for business customers in addition to basic local service and any other extended area service (EAS) charges. The parties also agreed that under the current law, AT&T Missouri may revise its prices through the tariff process at any time. Customers subscribing to the MCA service will need to change their telephone number to an MCA-designated telephone number. The parties also agreed that all other provisions of the MCA plan will apply, including bill-and-keep compensation.

An agreement with regard to the CenturyTel of Missouri, LLC, exchanges has not yet been finalized. The parties, however, encourage the Commission to move forward with the AT&T Missouri agreement.

The Commission held public hearings in Washington, Missouri, on January 12, 2006, and in Innsbrook, Missouri, on January 18, 2006, to receive comments about the plan filed by the Public Counsel. On February 21, 2006, the Commission convened a hearing in its offices in Jefferson City, Missouri, in order to ask questions about the agreement.

The parties indicated at the Stipulation Hearing that it will take time for AT&T Missouri and each of the other telecommunications carriers participating in the St. Louis MCA to revise their routing functions in order to accommodate these changes. AT&T Missouri indicated that if Commission approval of the Stipulation and Agreement was granted by the end of February, the plan could be implemented by October 30, 2006. AT&T Missouri will also need to file revised tariffs.

The Commission has the legal authority to accept a stipulation and agreement as offered by the parties as a resolution of issues raised in this case.¹ In reviewing the agreement, the Commission notes that²

Every decision and order in a contested case shall be in writing, and, except in default cases, or cases disposed of by stipulation, consent order or agreed settlement, the decision, including orders refusing licenses, shall include or be accompanied by findings of fact and conclusions of law. * * *

Consequently, the Commission need not make either findings of fact or conclusions of law in this order.

The requirement for a hearing is met when the opportunity for hearing has been provided and no proper party has requested the opportunity to present evidence.³ Since no one has requested a hearing in this case, the Commission may grant the relief requested based on the agreement.

The record reflects that while an optional MCA plan may not be the best choice for some customers, it is in the public interest to have the option available. Customers who choose to subscribe will benefit from a greatly increased calling scope and two-way calling from certain MCA Tiers and other MCA subscribers. And, even though there are no guarantees that AT&T Missouri will not immediately raise the rates for these customers again, the Legislature has prescribed that competitive companies may set competitive prices.

¹Section 536.060, RSMo Supp. 2005.

²Section 536.090, RSMo Supp. 2005. This provision applies to the Public Service Commission. *State ex rel. Midwest Gas Users' Association v. Public Service Commission of the State of Missouri*, 976 S.W.2d 485, 496 (Mo. App., W.D. 1998).

³ *State ex rel. Rex Deffenderfer Enterprises, Inc. v. Public Service Commission*, 776 S.W.2d 494, 496 (Mo. App. 1989).

Based on the agreement of the parties, the testimony received at the local public hearings, and the testimony received at the stipulation hearing, the Commission finds that the parties have reached a just and reasonable settlement in this case. Accordingly, the Commission shall direct the parties to abide by the terms of the agreement. The Commission shall also direct AT&T Missouri to expeditiously file proposed tariff sheets with an effective date on the earliest possible date that the provisions of the agreement can be implemented. In addition, AT&T Missouri shall be required to file a notice in this case within two weeks of the increase if it increases MCA rates for the Beaufort, St. Clair, Union, and Washington exchanges before January 10, 2010.

As a note to potential MCA plan subscribers in these exchanges, the Commission recommends that before subscribing to any calling plan, especially an optional plan that would require getting a new telephone number, telephone customers should review the various calling plans available from AT&T Missouri and the other competitive local exchange carriers in the area. There are numerous offerings available for both business and residential customers.⁴ Some plans have unlimited one-way calling locally and throughout the nation at a price lower than the MCA plan. Customers should ask specific questions and become educated about what the plans cover and what they cost before subscribing to any plan. Resources for comparing calling plans and links to consumer information websites can be found at the Commission's website, <http://www.psc.mo.gov/consumer-information.asp>, as well as at the website for the Office of the Public Counsel, <http://www.mo-opc.org/telephone/longdist.htm>.

⁴ AT&T Missouri listed several of its calling plans in its February 14, 2006 pleading.

IT IS ORDERED THAT:

1. The Stipulation and Agreement filed on December 2, 2005, is hereby approved (See Attachment A).
2. The parties to this case are ordered to comply with the terms of the Stipulation and Agreement.
3. No later than March 15, 2006, Southwestern Bell Telephone, L.P., d/b/a AT&T Missouri, shall file tariff sheets designed to implement the provisions of the Stipulation and Agreement with an effective date that is the earliest possible date that the provisions of the agreement can be implemented.
4. After the tariff sheets become effective and until January 1, 2010, Southwestern Bell Telephone, L.P., d/b/a AT&T Missouri, shall file a notice in this case if it increases the MCA rates for the Beaufort, St. Clair, Union, and Washington exchanges. The notice shall be filed within two weeks of the effective date of the increase.
5. This order shall become effective on February 28, 2006.

BY THE COMMISSION



Colleen M. Dale
Secretary

(S E A L)

Davis, Chm., Murray, Gaw, Clayton and Appling, CC., concur

Dippell, Deputy Chief Regulatory Law Judge