

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 10th day of
January, 2006.

In the Matter of a Request for the Modification of the)
Kansas City Metropolitan Calling Area Plan to Make)
the Greenwood Exchange Part of the Mandatory MCA)
Tier 2) **Case No. TO-2005-0144**

**ORDER APPROVING STIPULATION AND AGREEMENT
AND ORDER DIRECTING FILINGS**

Issue Date: January 10, 2006

Effective Date: January 20, 2006

Syllabus: This order approves the Stipulation and Agreement and directs Southwestern Bell Telephone, L.P., d/b/a AT&T Missouri, to file tariffs in order to implement the terms of that agreement.

On December 15, 2005, the Office of the Public Counsel, AT&T Missouri, and the Staff of the Missouri Public Service Commission filed a Stipulation and Agreement. No objections to the agreement were filed. A copy of the Stipulation and Agreement is attached to this order as Attachment A. 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 have agreed that the Greenwood exchange will become a mandatory Metropolitan Calling Area Plan exchange in the Kansas City MCA. Those customers will be able to call toll-free all customers in the Principal Zone and in Tiers 1, 2 and 3. In addition, they will be able to call toll-free all MCA subscribers in the Tier 4 and 5 exchanges. The parties also agree that under the current law, AT&T Missouri may revise its prices through the tariff process at any time. AT&T Missouri agrees to waive any rights it may have to remain revenue neutral in Greenwood exchange under the MCA Plan. Also as part of the agreement, all Greenwood exchange customers will be permitted to retain their current telephone numbers.

The parties further agreed that it will take time for AT&T Missouri and each of the other telecommunications carriers participating in the Kansas City MCA to revise their routing functions in order to accommodate these changes. The parties do not give an estimate as to how long this process will take. AT&T Missouri will also need to file revised tariffs.

On October 18, 2005, the Commission held a public hearing in Greenwood, Missouri, to receive comments about the original plan filed by the Public Counsel. On January 4, 2006, the Commission convened a hearing in its offices in Jefferson City, Missouri, in order to ask questions about the agreement.

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 some customers will be faced with a rate increase, those customers will benefit under the agreement from a greatly increased calling scope. In addition, customers outside of the Greenwood exchange which are subscribers to the MCA will also benefit from an increased calling scope. 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. 2004.

²Section 536.090, RSMo Supp. 2004. 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 hearing, and the testimony received at the evidentiary hearing, the Commission finds that the parties have reached a just and reasonable settlement in this case. Accordingly, the Commission will direct the parties to abide by the terms of the agreement. In addition, the Commission will 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. AT&T Missouri will also be directed to file a pleading accompanying its tariff explaining the steps necessary to implement the agreement and what the earliest projected date of implementation is expected to be. In addition, AT&T Missouri shall be required to file a notice in this case within two weeks if it increases MCA rates for the Greenwood exchange before January 10, 2010.

IT IS THEREFORE ORDERED:

1. That the Stipulation and Agreement filed on December 15, 2005, is hereby approved as a resolution of all issues in this case (See Attachment A).
2. That the parties to this case are ordered to comply with the terms of the Stipulation and Agreement.
3. That no later than February 10, 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. That no later than February 10, 2006, Southwestern Bell Telephone, L.P., d/b/a AT&T Missouri, shall file a pleading explaining the steps necessary to

implement the agreement and what the earliest projected date of implementation is expected to be.

5. That 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 Greenwood exchange within two weeks of the effective date of the increase.

6. That this order shall become effective on January 20, 2006.

7. That this case shall close on January 21, 2006.

BY THE COMMISSION

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', is written over a horizontal line.

Colleen M. Dale
Secretary

(S E A L)

Davis, Chm., Clayton and Appling, CC., concur
Murray and Gaw, CC., concur, concurrences to follow

Dippell, Senior Regulatory Law Judge