

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 23rd day of December, 2009.

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

**ORDER APPROVING TARIFF  
AND GRANTING VARIANCE**

Issue Date: December 23, 2009

Effective Date: December 31, 2009

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 Commission issued an order directing its Staff and any other interested parties to file responses.

On October 13, 2009, the Staff of the Missouri Public Service Commission filed a response indicating that the issues were too complicated to file a formal recommendation at that time.

Neutral Tandem extended the effective date of the tariff several times and the current effective date of the tariff is December 31, 2009. Neutral Tandem also filed substitute tariff pages in order to alleviate some of the concerns of Staff and AT&T regarding following the Ordering and Billing Forum's (OBF) Multiple Exchange Carrier

Access Billing (MECAB) Guidelines and Commission regulations. AT&T filed responses on November 13, 2009, and December 7, 2009. In these responses, AT&T stated that additional issues existed with the tariff that AT&T believed would cause costs to be inappropriately shifted to incumbent local exchange carriers and interexchange carriers.

Neutral Tandem filed a reply on December 10, 2009, urging the Commission to allow the tariff to become effective. Neutral Tandem cited to a Federal Communications Commission (FCC) report<sup>1</sup> encouraging competition for switched access. Neutral Tandem also cited to a report compiled by an FCC-appointed committee after Hurricane Katrina citing the value of redundancy in the telecommunications network. That report found that Hurricane “Katrina highlighted the need for diversity of call routing and avoiding strict reliance upon a single routing solution . . .”<sup>2</sup>

Staff filed its recommendation on December 16, 2009. Staff stated that it found no violation of any statutory provision or regulation by Neutral Tandem with its proposed tariff and recommended that the tariff be approved by an order of the Commission with two caveats. First, although the tariffs reflect that the competitive tandem switches will be used for telecommunications service statewide, Neutral Tandem is not certificated statewide. Thus, Staff recommended that the Commission issue its order including a statement that Neutral Tandem may not commence service in any area for which it does not hold a certificate.

Second, Staff recommends that the Commission grant a variance from a provision of Neutral Tandem’s certificate. Staff explains its second request as follows:

---

<sup>1</sup> *In the Matter of Access Charge Reform, Reform of Access Charges Imposed by Competitive Local Exchange Carriers*, CC Docket No. 96-262, Seventh Report and Order and Further Notice of Proposed Rulemaking, 16 FCC Rcd 9923 (2001).

<sup>2</sup> Independent Panel Reviewing the Impact of Hurricane Katrina on Communications Networks, *Report and Recommendations to the Federal Communications Commission*, June 12, 2006, page 8, 14.

. . . 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 [sic] the vast majority of small incumbents' access rates, but it is slightly higher than that of nine small incumbents. 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.<sup>3</sup>

On December 18, 2009, in lieu of filing a pleading in which it was required to explain the legal foundation for the requested suspension, AT&T withdrew its opposition to the tariff. AT&T explained that while it still had concerns about added costs for all IXCs that will interconnect with Neutral Tandem, it believes that the most appropriate way to address those concerns is on a business-to-business basis.

After considering the pleadings, the Commission finds that the tariff should be approved with the two caveats as recommended by Staff. Therefore, the Commission will approve the tariff as set out below. In addition, the Commission finds that Neutral Tandem should be granted a variance from that part of its certificate that includes a restriction on access charges.

**THE COMMISSION ORDERS THAT:**

1. Tariff File No. JX-2010-0151 filed by Neutral Tandem-Missouri, LLC, is approved with the condition that Neutral Tandem-Missouri, LLC, shall not provide service in any area in the state of Missouri in which it is not certificated.

---

<sup>3</sup> *Staff Response and Recommendation*, para. 4, (filed December 16, 2009).

2. Neutral Tandem-Missouri, LLC, is granted a variance from the restriction on access rates in its certificate granted in File No. CA-2006-0035. Neutral Tandem-Missouri, LLC, is permitted to charge a single access rate in all territories not served by large incumbent local exchange carriers as proposed in its tariff.

3. This order shall become effective on December 31, 2009.

**BY THE COMMISSION**



Steven C. Reed  
Secretary

( S E A L )

Clayton, Chm., Davis, Jarrett,  
Gunn, and Kenney, CC., concur.

Dippell, Deputy Chief Regulatory Law Judge