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d/b/a/ AT&T Missouri  
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SOUTHWESTERN BELL TELEPHONE, L.P. d/b/a  
AT&T MISSOURI

CASE NO. TO-2007-0053

REBUTTAL TESTIMONY

OF


CRAIG A. UNRUH

St. Louis, Missouri

In the Matter of the Review of the Competitive )  
 Classification of the Exchanges of Southwestern ) Case No. TO-2007-0053  
 Bell Telephone, L.P., d/b/a AT&T Missouri. )

STATE OF MISSOURI )  
 ) SS  
CITY OF ST. LOUIS )

1. My name is Craig A. Unruh. I am Executive Director-Regulatory for Southwestern Bell Telephone, L.P. d/b/a AT&T Missouri.
2. Attached hereto and made a part hereof for all purposes is my Rebuttal Testimony.
3. I hereby swear and affirm that my answers contained in the attached testimony to the questions therein propounded are true and correct to the best of my knowledge and belief.

  
Craig A. Unruh

Maryann Purcell  
Notary Public

**MARYANN PURCELL**  
Notary Public - Notary Seal  
**STATE OF MISSOURI**  
**City of St. Louis**  
**My Commission Expires: Jan. 5, 2008**

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**CASE NO. TO-2007-0053**  
**SOUTHWESTERN BELL TELEPHONE, L.P.,**  
**D/B/A/ AT&T MISSOURI**  
**REBUTTAL TESTIMONY OF CRAIG A. UNRUH**

**INTRODUCTION**

**Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

A. My name is Craig A. Unruh and my business address is One AT&T Center, Room  
3528, St. Louis, Missouri, 63101.

**Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT POSITION?**

A. I am employed by Southwestern Bell Telephone, L.P., d/b/a AT&T Missouri,  
(AT&T Missouri) and serve as its Executive Director – Regulatory. I am  
responsible for advocating regulatory policy and managing AT&T Missouri's  
regulatory organization.

**Q. HAVE YOU PREPARED AN EXHIBIT THAT SUMMARIZES YOUR  
PROFESSIONAL AND EDUCATIONAL BACKGROUND AND  
EXPERIENCE BEFORE THE MISSOURI PUBLIC SERVICE  
COMMISSION (COMMISSION)?**

A. Yes. This information is contained in Unruh - Schedule 1.

**PURPOSE AND MAIN POINTS OF TESTIMONY**

**Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

1 A. My testimony rebuts the testimony of Barbara A. Meisenheimer<sup>1</sup> and shows that  
2 OPC generally raises irrelevant issues such as complaints about the new law,  
3 attempts to resurrect the “effective competition” triggers from the old law,  
4 attempts to resurrect public interest arguments that the Commission has already  
5 decided, and makes vague, unsupported and non-exchange-specific claims about  
6 the demise of competition. My testimony, on the other hand, provides exchange-  
7 specific evidence demonstrating that the required competitive conditions continue  
8 to exist in each of AT&T Missouri’s competitively classified exchanges.  
9 Moreover, the Commission Staff’s (Staff’s) report<sup>2</sup> concludes that AT&T  
10 Missouri’s competitive classifications should be confirmed and provides  
11 additional exchange-specific evidence that the competitive conditions continue to  
12 exist in each of AT&T Missouri’s competitively classified exchanges.

13  
14 **Q. WHAT ARE THE MAIN POINTS THE COMMISSION SHOULD**  
15 **UNDERSTAND ABOUT YOUR TESTIMONY?**

16 A. The Commission should understand the following points about my testimony:  
17 • This case simply requires the Commission to review AT&T Missouri’s  
18 competitive classifications previously granted by the Commission to ensure  
19 the required competitive criteria continue to exist.  
20 • The evidence presented in Staff’s report and in my testimony clearly  
21 demonstrates that the competitive criteria continue to exist.

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<sup>1</sup> Direct Testimony of Barbara A. Meisenheimer submitted on behalf of the Office of Public Counsel (OPC) dated December 14, 2006.

<sup>2</sup> Commission Staff Memorandum from John Van Eschen, dated August 7, 2006 (Staff Report).

- 1           • OPC’s continued complaints about the present law and its attempts to  
2           reinstitute old law should be disregarded as irrelevant.
- 3           • OPC’s attempts to re-argue public interest are not relevant, but in any event,  
4           are not sufficient for the Commission to find competitive classification is  
5           contrary to the public interest.

6

7   **THE COMMISSION SHOULD IGNORE OPC’S EFFORTS TO REVIVE THE**  
8   **OLD “EFFECTIVE COMPETITION” STATUTE**

9   **Q.   HOW WOULD YOU GENERALLY CHARACTERIZE MS.**  
10   **MEISENHEIMER’S DIRECT TESTIMONY?**

11   A.   Ms. Meisenheimer’s testimony appears simply to be an attempt to revive the now  
12       dead statutory framework that required the Commission to find “effective  
13       competition” before granting competitive classification.

14

15   **Q.   WHAT IS THE BASIS FOR THIS VIEW?**

16   A.   Ms. Meisenheimer seeks to have the Commission examine the “effectiveness” of  
17       competition, the “comparability” of services, “comparability” of prices, “who” the  
18       competitors are, and the extent of facility-based competition,<sup>3</sup> which are all  
19       concepts the Commission historically examined when “effective competition”

---

<sup>3</sup> See for example, Meisenheimer Direct Testimony, p. 10, ln. 18-20, p. 11, ln. 18-20, p. 12, ln. 4-8, p. 12, ln. 19-21.

1           was the statutory trigger before the Legislature changed Section 392.245 RSMo.  
2           through SB 237 in 2005.

3

4   **Q.    ARE THESE CONCEPTS APPROPRIATE FACTORS FOR THE**  
5           **COMMISSION TO CONSIDER IN MAKING ITS DETERMINATION**  
6           **HERE UNDER SECTION 392.245.5?**

7   A.    No. OPC would have the Commission forget that the law has changed. The  
8           process for examining competitive classifications changed dramatically under the  
9           new law.<sup>4</sup> SB 237 eliminated the “effective competition” trigger from the statute  
10          under which the Commission conducted a service-by-service analysis examining  
11          the “extent” of competition and the comparability of services, prices, terms and  
12          conditions. Instead, SB 237 requires the Commission to determine if choice  
13          continues to be available in the exchange.

14

15   **Q.    WHAT IS THE CRITERIA IN SECTION 392.245.5 FOR INITIALLY**  
16          **OBTAINING COMPETITIVE CLASSIFICATION UNDER THE 60 DAY**  
17          **PROCESS<sup>5</sup>?**

18   A.    In addition to requiring the Commission to consider competition from entities  
19          providing local service using their own facilities in whole or in part (as is required

---

<sup>4</sup> SB 237 went into effect in August 2005, which, among other things, altered Section 392.245 (RSMo) to change the manner in which competitive classifications were to be determined.

<sup>5</sup> SB 237 modified Section 392.245 (RSMo) to create two tracks for price cap regulated carriers to obtain competitive classifications for their exchanges. One track grants competitive classification where facility-based competitors are providing service. This track is to be completed within 30 days (the “30 day” track). The second track grants competitive classification in exchanges that do not meet the 30 day criteria, but otherwise have competitors, and where it is not contrary to the public interest. This track is to be completed within 60 days (the “60 day” track).

1 under the 30 day track), the 60 day track also requires consideration of  
2 competitors that use the ILEC's facilities or a third party's facilities. The statute  
3 requires the Commission to grant competitive classification within 60 days unless  
4 it determines that such classification is contrary to the public interest:

5 Notwithstanding any other provision of the subsection, any incumbent  
6 local exchange company may petition the commission for competitive  
7 classification within an exchange based on competition from any entity  
8 providing local voice service in whole or in part by using its own  
9 telecommunications facilities or other facilities or the telecommunications  
10 facilities or other facilities of a third party, including those of the  
11 incumbent local exchange company as well as providers that rely on an  
12 unaffiliated third party Internet service. The commission shall approve  
13 such petition within sixty days unless it finds that such competitive  
14 classification is contrary to the public interest.<sup>6</sup>  
15

16 It was under this new framework that the Commission granted competitive  
17 classification for the 81 exchanges<sup>7</sup> at issue in this case. OPC has presented no  
18 evidence to show that the required competitive conditions no longer exist.

19

20 **Q. WHEN IT REVIEWS COMPETITIVE CLASSIFICATIONS**  
21 **PREVIOUSLY GRANTED, IS THE COMMISSION TO CONDUCT A**  
22 **REVIEW OF THE "EFFECTIVENESS" OF COMPETITION IN AN**  
23 **EXCHANGE?**

24 A. No. The present law requires the Commission again to simply count the presence  
25 of competitors. The pertinent part of Section 392.245.5 states:

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<sup>6</sup> Section 392.245.5.

<sup>7</sup> The 81 exchanges include 30 exchanges for business services and 51 exchanges for residential services.

1           The commission shall, at least every two years, or where an incumbent  
2           local exchange telecommunications company increases rates for basic  
3           local telecommunications services in an exchange classified as  
4           competitive, review those exchanges where an incumbent local exchange  
5           carrier's services have been classified as competitive, to determine if the  
6           conditions of this subsection for competitive classification continue to  
7           exist in the exchange and if the commission determines, after hearing, that  
8           such conditions no longer exist for the incumbent local exchange  
9           telecommunications company in such exchange, it shall reimpose upon the  
10          incumbent local exchange telecommunications company, in such  
11          exchange, the provisions of paragraph (c) of subdivision (2) of subsection  
12          4 of section 392.200 and the maximum allowable prices established by the  
13          provisions of subsections 4 and 11 of this section, and, in any such case,  
14          the maximum allowable prices established for the telecommunications  
15          services of such incumbent local exchange telecommunications company  
16          shall reflect all index adjustments which were or could have been filed  
17          from all preceding years since the company's maximum allowable prices  
18          were first adjusted pursuant to subsection 4 or 11 of this section.  
19          (emphasis added).  
20

21          Here, the evidence presented in Staff's Report and my Rebuttal testimony  
22          demonstrates that the required conditions continue to exist and the Commission  
23          should confirm competitive classification for AT&T Missouri's competitively  
24          classified exchanges.  
25

26          **OPC PRESENTED NO SUBSTANTIVE EVIDENCE TO SUPPORT ITS CLAIM**  
27          **THAT COMPETITIVE CONDITIONS NO LONGER EXIST IN THE 60 DAY**  
28          **EXCHANGES**

29          **Q.     IN WHAT AT&T MISSOURI EXCHANGES IS OPC CHALLENGING**  
30          **THE COMMISSION'S PREVIOUS GRANT OF COMPETITIVE**  
31          **CLASSIFICATION?**

32          A.     OPC is only challenging the continued competitive classification previously  
33          granted by the Commission for business services in 30 exchanges and for

1 residential services in 51 exchanges under the 60-day track of Section 392.245.5  
2 in Case No. TO-2006-0102. By an October 5, 2006, stipulation jointly filed in  
3 this case by Staff, OPC and AT&T Missouri, the parties have agreed “to narrow  
4 the contested issue in this case to a determination of whether competitive  
5 conditions continue to exist in those exchanges granted competitive classification  
6 under the 60-day track.”<sup>8</sup> The stipulation reflects Staff and AT&T Missouri’s  
7 agreement that Staff’s August 8, 2006 Report demonstrates that the competitive  
8 conditions for the 30 day exchanges continue to exist and that those exchanges  
9 should remain classified as competitive. While OPC did not join that part of the  
10 stipulation, OPC agreed not to object to it and agreed not to offer any evidence in  
11 opposition to that stipulation.

12  
13 **Q. DID OPC PRESENT ANY EVIDENCE TO SHOW THAT COMPETITIVE**  
14 **CONDITIONS NO LONGER EXIST IN THE AT&T MISSOURI**  
15 **EXCHANGES THAT PREVIOUSLY RECEIVED COMPETITIVE**  
16 **CLASSIFICATION IN THE 60 DAY PROCEEDING?**

17 A. No. Ms. Meisenheimer’s direct testimony provides no substantive  
18 evidence to show that the required competitive conditions no longer exist  
19 in those exchanges. While Ms. Meisenheimer makes some general and  
20 unsubstantiated claims about the overall state of competition,<sup>9</sup> her  
21 testimony provides no exchange-specific evidence showing that the

---

<sup>8</sup> Joint Motion to Establish Procedural Schedule and Stipulation as to 30 Day Exchanges, filed October 5, 2006 in Case No. TO-2007-0053, p. 3.

<sup>9</sup> See, for example, Meisenheimer direct p. 10, ln. 17-18, p. 13, ln. 2-6.

1           requisite competitive conditions no longer exist in any of AT&T

2           Missouri's 60 day exchanges.

3

4   **Q.   MS. MEISENHEIMER'S DIRECT TESTIMONY COMPLAINS THAT**  
5           **FACILITY-BASED COMPETITION IS LIMITED AND HAS NOT**  
6           **EXPANDED SINCE THE GRANT OF AT&T MISSOURI'S**  
7           **COMPETITIVE CLASSIFICATION (MEISENHEIMER DIRECT, PP. 10,**  
8           **12). WHAT IS THE RELEVANCE OF THESE COMPLAINTS?**

9   A.   Since OPC is only challenging AT&T Missouri's competitive classifications  
10          granted under the "60 day" track, the complaints are not relevant since the 60 day  
11          track by design counts additional forms of competition beyond that provided by  
12          facility-based carriers. The "30 day" track is where the Commission counts the  
13          number of facility-based carriers to determine whether the competitive conditions  
14          have been met. While Ms. Meisenheimer's facility-based argument is irrelevant  
15          for the 60 day exchanges, my testimony, as further explained below, demonstrates  
16          that facility-based competition is actually spreading as the majority of AT&T  
17          Missouri's exchanges that were previously granted competitive classification  
18          under the 60 day track could now qualify under the 30 day track.

19

20   **Q.   MS. MEISENHEIMER ALSO COMPLAINS ABOUT WIRELESS**  
21          **COMPETITION AND SUGGESTS THAT WIRELESS COMPETITORS**  
22          **SHOULD NOT BE COUNTED FOR VARIOUS REASONS**  
23          **(MEISENHEIMER DIRECT, PP. 13-15). DO YOU AGREE?**

1 A. No. Neither does the legislature. The law makes clear that wireless competitors  
2 are to be included in the competitor counts for determining competitive  
3 classifications. If legislators intended for the Commission to discount wireless  
4 competitors because of long term contracts, call quality issues, etc., as Ms.  
5 Meisenheimer suggests, the law would have included provisions for Commission  
6 discretion. However, the law is clear that wireless competitors are to be counted  
7 when they are present in the exchange.

8  
9 I would add that AT&T Missouri did check the individual wireless carriers'  
10 websites to check service areas and confirmed that the wireless carriers offered  
11 service in each AT&T Missouri exchange in which the wireless carrier was listed  
12 as a competitor. Moreover, AT&T Missouri has presented evidence in Unruh –  
13 Schedule 2 and Unruh – Schedule 3 demonstrating that there are more than  
14 enough traditional wireline competitors (e.g., CLECs) in each of the 60 day  
15 competitively classified exchanges to confirm competitive classification even  
16 without counting the presence of wireless carriers.

17  
18 **STAFF'S REPORT AND AT&T MISSOURI'S EVIDENCE DEMONSTRATE**  
19 **THAT COMPETITIVE CONDITIONS REMAIN AND THAT COMPETITIVE**  
20 **CLASSIFICATION SHOULD BE AFFIRMED**

21 **Q. DID STAFF'S REPORT CONCLUDE THAT COMPETITIVE**  
22 **CLASSIFICATIONS FOR AT&T MISSOURI'S COMPETITIVELY**  
23 **CLASSIFIED EXCHANGES SHOULD BE CONFIRMED?**

1 A. Yes. The Staff report concludes that “competitive conditions continue to exist in  
2 all exchanges.”<sup>10</sup> Staff reviewed CLEC annual reports to determine if the  
3 requisite competitive criteria continue to exist in each of AT&T Missouri’s  
4 competitively classified exchanges. In a few exchanges, Staff sought additional  
5 evidence beyond the CLEC annual reports to confirm the competitive criteria  
6 continue to be met.

7

8 **Q. DO YOU HAVE ADDITIONAL EVIDENCE TO DEMONSTRATE THE**  
9 **COMPETITIVE CONDITIONS CONTINUE TO EXIST SUCH THAT THE**  
10 **COMPETITIVE CLASSIFICATIONS SHOULD BE CONFIRMED?**

11 A. Yes. Unruh - Schedule 2(HC) and Unruh – Schedule 3(HC) identifies  
12 competitors within the 60 day exchanges. Unruh – Schedule 2(HC) identifies  
13 competitors in the exchanges that are competitively classified for residential  
14 services. Unruh – Schedule 3(HC) identifies competitors in the exchanges that  
15 are competitively classified for business services. The schedules identify the  
16 requisite two competitors for each exchange. In addition, the schedules also  
17 identify a sampling of additional competitors in each exchange. In most cases,  
18 there are more competitors than those identified in each exchange, but we have  
19 limited the schedules to generally show a sampling of CLECs, wireless carriers  
20 and VoIP providers that also provide service in the exchange. Additionally,  
21 Unruh – Schedule 4(HC) and Unruh – Schedule 5(HC) identify the requisite two  
22 competitors within each of the 30 day exchanges. Unruh – Schedule 4(HC)

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<sup>10</sup> Staff Report, p. 1.

1 identifies competitors in the exchanges that are competitively classified for  
2 residential services. Unruh – Schedule 5(HC) identifies competitors in the  
3 exchanges that are competitively classified for business services.

4

5 **Q. HOW WERE THE COMPANIES IN UNRUH – SCHEDULES 2(HC) AND**  
6 **3(HC) IDENTIFIED?**

7 A. Through an examination of AT&T Missouri’s internal business records, we  
8 identified traditional wireline companies (e.g., CLECs) that have 911 listings,  
9 ported telephone numbers, or wholesale services purchased from AT&T Missouri  
10 (e.g., Local Wholesale Complete) within each of the exchanges.<sup>11</sup> The wireless  
11 companies were identified by confirming service availability within each  
12 exchange via the wireless carriers’ individual websites. Likewise, the VoIP  
13 companies were also identified by reviewing the VoIP providers’ websites and  
14 confirming service availability in the respective exchanges.

15

16 **Q. HOW WERE THE COMPANIES IN UNRUH – SCHEDULES 4(HC) AND**  
17 **5(HC) IDENTIFIED?**

18 A. Through an examination of AT&T Missouri’s internal business records, we  
19 identified traditional wireline companies (e.g., CLECs) that use facilities other  
20 than those provided by AT&T Missouri as evidenced by the existence of 911  
21 listings and/or ported telephone numbers. In one instance, we also used publicly

---

<sup>11</sup> A wireline company may have combinations of these criteria as well.

1 available information from a company's annual report<sup>12</sup>. The wireless companies  
2 were identified by reviewing the wireless carriers' websites where we confirmed  
3 service availability in the exchange. For ease of reference, the column labeled  
4 "Competitor 1" is populated with CLECs and the column labeled "Competitor 2"  
5 is populated with wireless carriers. There may be additional non-wireless facility-  
6 based carriers in certain exchanges. Staff's report identifies some exchanges  
7 where there are more than two non-wireless facility-based carriers.

8

9 **Q. BASED ON STAFF'S REPORT AND THE INFORMATION CONTAINED**  
10 **IN UNRUH – SCHEDULES 2(HC), 3(HC), 4(HC) AND 5(HC), SHOULD**  
11 **THE COMMISSION CONFIRM THAT THE COMPETITIVE**  
12 **CONDITIONS CONTINUE TO EXIST FOR AT&T MISSOURI'S**  
13 **COMPETITIVELY CLASSIFIED EXCHANGES?**

14 A. Yes. Contrary to OPC's lack of exchange-specific evidence, the Staff report and  
15 the information contained in my schedules demonstrate, on an exchange-specific  
16 basis as required under the statute, that the competitive conditions continue to be  
17 met and, therefore, the Commission should confirm the continuation of the  
18 competitive classifications.

19

20 **Q. EARLIER IN YOUR TESTIMONY, YOU INDICATED THAT FACILITY-**  
21 **BASED COMPETITORS WERE EXPANDING AND THAT A MAJORITY**  
22 **OF AT&T MISSOURI'S 60 DAY COMPETITIVE EXCHANGES NOW**

---

<sup>12</sup> Missouri Telecom publicly identified their facility-based lines in their annual report.

1           **QUALIFY FOR COMPETITIVE CLASSIFICATION UNDER THE 30**  
2           **DAY TRACK. DO YOU PROVIDE EVIDENCE OF THIS?**

3    A.     Yes. Unruh – Schedule 2(HC) and Unruh – Schedule 3(HC) include a column to  
4           identify the exchanges previously granted competitive classification under the 60  
5           day track that could now qualify for competitive classification under the 30 day  
6           track. As these schedules show, a majority of the 60 day exchanges for both  
7           residential and business services could now qualify for competitive classification  
8           under the 30 day process. While we have not completely analyzed all the data  
9           under the 30 day criteria, it appears that at least 27 of the 30 business exchanges  
10          previously granted competitive classification under the 60 day track could now  
11          qualify under the 30 day criteria. Likewise, it appears at least 27 of the 51  
12          residential exchanges previously granted competitive classification under the 60  
13          day track could now qualify under the 30 day criteria.

14  
15       **OPC’S ARGUMENTS REGARDING THE PUBLIC INTEREST ARE NOT**  
16       **RELEVANT. IN ANY EVENT, HOWEVER, OPC HAS NOT DEMONSTRATED**  
17       **THAT COMPETITIVE CLASSIFICATION FOR THE 60 DAY EXCHANGES IS**  
18       **CONTRARY TO THE PUBLIC INTEREST**

19    **Q.     MS. MEISENHEIMER CLAIMS THAT COMPETITIVE**  
20           **CLASSIFICATION FOR THE 60 DAY EXCHANGES IS CONTRARY TO**  
21           **THE PUBLIC INTEREST.<sup>13</sup> DID THE COMMISSION ALREADY**

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<sup>13</sup> See, for example, Meisenheimer Direct, p. 2, ln. 12-14.

1           **CONCLUDE THAT COMPETITIVE CLASSIFICATION WOULD NOT**  
2           **BE CONTRARY TO THE PUBLIC INTEREST?**

3    A.     Yes. Pursuant to the statutory requirements under the 60 day track, the  
4           Commission, in Case No. TO-2006-0102, found that granting a competitive  
5           classification would not be contrary to the public interest. OPC's arguments in  
6           that case were not persuasive and are not relevant in the present case where the  
7           Commission simply has to confirm that the required competitive conditions  
8           continue to exist. And, as the evidence demonstrates, the competitive conditions  
9           do continue to exist, so the Commission should confirm the competitive  
10          classification.

11

12   **Q.     WHAT ARE OPC'S ARGUMENTS FOR CLAIMING THAT**  
13           **COMPETITIVE CLASSIFICATIONS ARE CONTRARY TO THE**  
14           **PUBLIC INTEREST?**

15   A.     OPC appears to rely on two general arguments. The first is an argument about the  
16           "effectiveness" of competition. I'm using "effectiveness" as a shortcut for OPC's  
17           laundry list of items OPC would like to have the Commission review. These  
18           include, among other things, an analysis of the comparability of services, prices,  
19           terms and conditions as well as an examination of facility-based competition in 60  
20           day exchanges. The second is an argument that a price increase is contrary to the  
21           public interest.

1   **Q.     ARE EITHER OF THESE ARGUMENTS SUFFICIENT TO SHOW THAT**  
2           **CONTINUED COMPETITIVE CLASSIFICATION FOR THE 60 DAY**  
3           **EXCHANGES IS CONTRARY TO THE PUBLIC INTEREST?**

4   A.     No.

5

6   **Q.     WHY ISN'T OPC'S ARGUMENT ABOUT THE "EFFECTIVENESS" OF**  
7           **COMPETITION SUFFICIENT TO MEET ITS BURDEN?**

8   A.     As indicated previously in my testimony, OPC is attempting to resurrect the old  
9           statute that required the Commission to determine whether or not "effective  
10          competition" existed. Under this trigger, the Commission examined things like  
11          the comparability of services, prices, terms and conditions, among other things.  
12          The legislature dramatically changed the method by which the Commission grants  
13          competitive classification by removing this trigger and replacing it with a 30 day  
14          and 60 day track where the Commission simply counts the presence of  
15          competitors as specified under the applicable statutory framework.<sup>14</sup> The  
16          Commission no longer examines the "effectiveness" of competition as OPC  
17          wishes.

18

19   **Q.     WHY IS OPC'S COMPLAINT ABOUT A LOCAL PRICE INCREASE**  
20           **ALSO INSUFFICIENT?**

21   A.     Again, the Commission has already determined that granting competitive  
22          classification was not contrary to the public interest so OPC's attempts to

---

<sup>14</sup> As explained previously in my testimony, the 60 day track also contains a public interest review.

1           resurrect the public interest argument are not relevant. However, even if the  
2           Commission were to re-examine the public interest, OPC has not provided  
3           sufficient evidence to demonstrate that competitive classification is now contrary  
4           to the public interest. With respect to OPC's complaints about local price  
5           increases, OPC has not demonstrated why the price increases were contrary to the  
6           public interest. Generally in our economy, prices for most goods and services  
7           tend to rise over time. To remain viable, companies have to recover their costs  
8           and generate money to invest in their operations to bring new and better services  
9           to their customers. OPC falsely claims that a price increase means that there is no  
10          competition. Clearly, this is incorrect as prices rise in competitive markets as a  
11          general matter of course.

12  
13   **Q.   HAS AT&T MISSOURI INCREASED PRICES FOR CERTAIN**  
14   **SERVICES IN SOME OF ITS COMPETITIVELY CLASSIFIED**  
15   **EXCHANGES SINCE RECEIVING SUCH COMPETITIVE STATUS?**

16   A.   Yes. AT&T Missouri elected to make modest price increases for business and  
17          residential basic local services in certain exchanges.

18  
19   **Q.   HOW DO THOSE INCREASED PRICES COMPARE TO AT&T**  
20   **MISSOURI'S HISTORICAL PRICES AND THE PRICES CHARGED BY**  
21   **OTHER TELEPHONE COMPANIES ACROSS THE COUNTRY?**

22   A.   Prior to the price increase, residential basic local prices were lower than they were  
23          in 1984. Even after the residential basic local price increases, which ranged from

1           \$0.93 to \$1.26, prices are only \$0.25 to \$0.95 per month more than they were in  
2           1984 – over 20 years ago. If basic local prices had simply kept pace with  
3           inflation, they would have roughly doubled since 1984. Even after the modest  
4           increases in 2006, AT&T Missouri’s residential basic local prices remain some of  
5           the lowest in the nation. I believe consumers still receive a very good deal on  
6           basic local service.

7

8   **Q.    HAS THE COMMISSION RECOGNIZED THAT PRICE INCREASES**  
9   **ARE NORMAL OCCURANCES IN COMPETITIVE MARKETS?**

10  A.    Yes. The Commission’s Report and Order in Case No. IO-2003-0281<sup>15</sup> states:

11                   ...although falling rates are often touted as an argument for  
12                   establishing a competitive market, there is no economic, or logical  
13                   reason why prices must always fall in a competitive market.  
14                   Sometime prices do rise in markets that are clearly competitive.  
15                   Any motorist that observes the price fluctuations in the competitive  
16                   retail gasoline market is aware that competition does not always  
17                   result in falling prices. In fact, it is possible that the competitive  
18                   market rates for telephone service are higher than the rates  
19                   imposed on that market under rate of return regulation and carried  
20                   through under price cap regulation. If that is the case, then rates  
21                   will rise in a competitive market.

22

23  **Q.    WHAT WAS THE COMMISSION’S PRICING POLICY DURING RATE**  
24  **BASE RATE-OF-RETURN REGULATION?**

25  A.    As expressed in Case No. 18,309, the Commission’s policy was to residually  
26           price AT&T Missouri’s basic local services after maximizing contribution from  
27           non-basic services. The result was to price residential basic local service at very

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<sup>15</sup> In the Matter of the Investigation of the State of Competition in the Exchanges of Sprint Missouri, Inc., Case No. IO-2003-0281, Report and Order, issued December 4, 2003 at p. 31.

1 low prices and to “make-up” the difference by pricing other services at higher  
2 prices.  
3

4 **Q. ARE THE COST-BASED PRICES THAT THE COMMISSION**  
5 **ESTABLISHED FOR AT&T MISSOURI’S UNBUNDLED NETWORK**  
6 **ELEMENT – PLATFORM (UNE-P) HIGHER THAN AT&T MISSOURI’S**  
7 **RESIDENTIAL BASIC LOCAL PRICES?**

8 A. Yes. The Commission initially established prices for AT&T Missouri’s UNE-P  
9 based on the TELRIC costs it found in Case No. 97-40. While AT&T Missouri  
10 believes that these rates under recover AT&T Missouri’s costs, these rates are,  
11 nonetheless, higher than AT&T Missouri’s residential basic local prices.  
12

13 **Q. MS. MEISENHEIMER SUGGESTS THAT THE LEGISLATURE**  
14 **SOUGHT TO PROTECT CONSUMERS FROM BASIC LOCAL PRICE**  
15 **INCREASES AFTER AN EXCHANGE IS DECLARED COMPETITIVE**  
16 **(MEISENHEIMER DIRECT, P. 7, LINES 9-13). DO YOU AGREE THIS**  
17 **WAS THE LEGISLATURE’S INTENT?**

18 A. No. If the legislature intended for consumers to be protected from basic local  
19 price increases, then the law would have directed, in some fashion, that basic local  
20 price increases were not permitted.<sup>16</sup> The law clearly does not include this type of

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<sup>16</sup> For example, the law could have exempted basic local services from becoming competitively classified as it did with switched access services.

1 restriction and, in fact, makes clear that basic local service is to be included in the  
2 services that become competitively classified once an exchange is declared  
3 competitive. The law is clear that the marketplace is to determine pricing levels  
4 in competitively classified exchanges.

5

6 **Q. MS. MEISENHEIMER IMPLIES THAT YOUR TESTIMONY IN A**  
7 **PREVIOUS CASE PROMISED NO LOCAL PRICE INCREASES IN**  
8 **COMPETITIVELY CLASSIFIED EXCHANGES (MEISENHEIMER**  
9 **DIRECT, P. 15-16). DID YOU PROMISE NO BASIC LOCAL PRICE**  
10 **INCREASES IN THAT PREVIOUS CASE?**

11 A. No. I did not promise that there would be no basic local price increases. What I  
12 did indicate in my testimony during that case was that I did not believe that  
13 AT&T Missouri would make any substantial or unreasonable price increases to  
14 basic local service. I explained that competition, negative customer reaction, and  
15 political realities would prevent AT&T Missouri from significantly increasing  
16 basic local prices. In that case, I also discussed how prices tend to rise in  
17 competitive markets and that residential basic local prices are below cost and have  
18 historically been restrained by regulatory action thus suggesting that there is  
19 natural pressure on basic local pricing levels. As I explained above, the basic  
20 local price increases that AT&T Missouri did decide to implement are modest. I  
21 would also point out that there has been no public outcry from these increases so I  
22 do not believe customers see the price increases as being unreasonable. I stand by  
23 my previous testimony and would say the same today.

1   **SUMMARY**

2   **Q.     PLEASE SUMMARIZE YOUR TESTIMONY.**

3   A.     My testimony has demonstrated that OPC's wish to resurrect old competitive  
4           classification triggers is not consistent with the present law and should be ignored.  
5           Additionally, while OPC challenges the continued competitive classification for  
6           the 60 day exchanges, it has presented no substantive evidence to demonstrate  
7           that competitive conditions have ceased to exist in any of these exchanges. The  
8           arguments OPC makes about public interest are not only irrelevant, but also  
9           insufficient to show that continued competitive classification for these exchanges  
10          is contrary to the public interest. To the contrary, Staff has conducted an  
11          exchange specific analysis and concluded that the competitive conditions do  
12          continue to exist so competitive classification should be confirmed. Moreover,  
13          my testimony presents additional evidence that the competitive conditions remain  
14          in each of AT&T Missouri's competitively classified exchanges so the  
15          Commission should confirm the competitive classifications. Furthermore, many  
16          of the exchanges granted competitive classification under the 60 day track could  
17          now qualify under the 30 day track. The evidence is clear that competitive  
18          classification should be confirmed.

19

20   **Q.     DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?**

21   A.     Yes.

1 **SUMMARY OF EDUCATION, WORK EXPERIENCE AND QUALIFICATIONS**

2  
3  
4 **Q. PLEASE SUMMARIZE YOUR PROFESSIONAL AND EDUCATIONAL**  
5 **BACKGROUND?**

6 A. I received a Bachelor of Science in Computer Science from Kansas State  
7 University in 1986. I received a Master of Business Administration from  
8 Washington University in St. Louis in 1995. I have been employed by AT&T  
9 Missouri since 1986 and have held several positions in the company mostly  
10 working in the regulatory area. I have worked on regulatory issues at both the  
11 federal and state level.  
12

13 **Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THIS COMMISSION?**

14 A. Yes, I have previously testified in the following Missouri cases:  
15 • Missouri Case No. TO-98-212, In the Matter of the Investigation into the  
16 Exhaustion of Central Office Codes in the 314 Numbering Plan Area  
17 • Missouri Case No. TO-97-217, In the Matter of an Investigation Concerning  
18 the Continuation or Modification of the Primary Toll Carrier Plan (PTC)  
19 When IntraLATA Presubscription is Implemented in Missouri  
20 • Missouri Case No. TO-99-14, In the Matter of the Implementation of Number  
21 Conservation Methods in the St. Louis, Missouri Area  
22 • Missouri Case No. TO-99-254, et al., In the Matter of an Investigation  
23 Concerning the Primary Toll Carrier Plan and IntraLATA Dialing Parity  
24 • Missouri Case No. TO-99-483, In the Matter of an Investigation for the  
25 Purpose of Clarifying and Determining Certain Aspects Surrounding the

Provisioning of Metropolitan Calling Area Service after the Passage and  
Implementation of the Telecommunications Act of 1996

- Missouri Case No. TR-2001-344, In the Matter of Northeast Missouri Rural Telephone Company's Rate Case in Compliance with the Commission's Orders in TO-99-530 and TO-99-254
- Missouri Case No. TO-98-329, Investigation into Various Issues Relating to the Missouri Universal Service Fund
- Missouri Case No. TT-2002-227, et al., In the Matter of Southwestern Bell Telephone Company's Proposed Revisions to PSC MO No. 26, Long Distance Message Telecommunications Service Tariff
- Missouri Case No. TR-2001-65, Investigation of actual costs incurred in providing exchange access service and the access rates to be charged by competitive local exchange telecommunications companies
- Missouri Case No. IT-2004-0015, In the Matter of Southwestern Bell Telephone Company, d/b/a SBC Missouri's Proposed Revised Tariff Sheet Intended to Increase by Eight Percent the Rates for Line Status Verification and Busy Line Interrupt as Authorized by Section 392.245, RSMo, the Price Cap Statute
- Missouri Case No. TO-2005-0035, In the Matter of The Second Investigation into the State of Competition in the Exchanges of Southwestern Bell Telephone, L. P., d/b/a SBC Missouri

- 1       • Missouri Case No. TO-2006-0093, In the Matter of the Request of  
2       Southwestern Bell Telephone, L.P., d/b/a SBC Missouri, for Competitive  
3       Classification Pursuant to Section 392.245.6, RSMo (2005) – 30 day Petition.
- 4       • Missouri Case No. TO-2006-0102, In the Matter of the Request of  
5       Southwestern Bell Telephone, L.P., d/b/a SBC Missouri, for Competitive  
6       Classification Pursuant to Section 392.245.6, RSMo (2005) – 60 day Petition