

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

In the Matter of AT&T Communications)	
of the Southwest, Inc.'s Proposed Tariff to)	Case No. TT-2002-129, <i>et al.</i>
Establish a Monthly Instate Connection)	(consolidated)
Fee and Surcharge)	

**AT&T COMMUNICATIONS OF THE SOUTHWEST, INC'S
STATEMENT OF POSITIONS**

I. Based on the following sub-issues, should the Commission reject the AT&T, Sprint and MCI tariffs at issue in this case?

No. AT&T's position is that the Commission should allow AT&T's ISCF to remain in effect. The Commission should not reject the AT&T tariff at issue in this case. AT&T's position is that its ISCF tariff should be approved. AT&T's position is that the ISCF is a lawful means for AT&T to recover some of its excessive intrastate access costs, that recovery of such costs is in the public interest, and that approval of AT&T's ISCF tariff is in the public interest.

A. Should the Commission apply the provisions of subsection 392.200.1 to the AT&T, Sprint and MCI surcharges at issue, and if so, are the surcharges just and reasonable under subsection 392.200.1?

AT&T's position is that the Commission should not apply a "just and reasonable" analysis to the ISCF tariff, but if the Commission does, the Commission should find that the ISCF is just and reasonable. The Missouri Court of Appeals determined that the Commission has the discretion whether to apply the "just and reasonable" standard of RSMo. § 392.200.1 to an application for approval of a competitive tariff. AT&T believes that the intent of the legislation analyzed by the Court in fact suggests that such a

standard should not be applied to competitive services and, based on the competitive classification of AT&T's intrastate long distance services, the Commission should allow the competitive marketplace to determine what is "just and reasonable." *Direct Testimony of AT&T Witness Daniel P. Rhinehart, pages 8 – 9; Surrebuttal Testimony of AT&T Witness Daniel P. Rhinehart, pages 7 – 10.*

Should the Commission decide to apply the just and reasonable standard to AT&T's ISCF for competitive long distance services, AT&T's position is that its ISCF tariff is just and reasonable. The ISCF is a charge for a competitive service that consumers can obtain from multiple alternative service providers. Customers have had adequate notice of the ISCF. The ISCF allows AT&T to recover only a portion of its excessive intrastate access costs incurred when providing long distance service in Missouri, which is just and reasonable given that Missouri's average intrastate switched access costs are the third highest in the nation, and are almost three times higher than the national average intrastate switched access rate. The flat rate structure of the ISCF is common in the telecommunications industry and such a rate structure reduces the incentive for high volume customers to seek alternative service providers, such as wireless and Internet long distance providers. Consequently, the ISCF is a just and reasonable method of recovering excessive intrastate access costs. *Rhinehart Direct, pages 6 – 7, 9 – 12; Rhinehart Surrebuttal, pages 13 – 30.*

Because OPC has used the terms "just and reasonable" interchangeably with the concept of "discriminatory" (or "non-discriminatory" as the case may be), and because Sub-Issue B below addresses the issue of whether the ISCF is discriminatory under

RSMo. § 392.200.2 and .3, AT&T's position statement for Sub-Issue B provides AT&T's position on OPC's arguments in more detail.

B. Do the AT&T, Sprint and MCI surcharges at issue comply with subsections 392.200.2 and 392.200.3 RSMo. (2000)?

Both of these statutory provisions can be generally interpreted as prohibiting unlawful or unreasonable discrimination in the offering of telecommunications services. AT&T will state its position in response to each of the general claims of discrimination that have been raised by OPC:

1. Discrimination as between business and residential customers

AT&T's ISCF does not apply to business customers. AT&T's position is that a distinction between residential and business customer classes has long been recognized as just and reasonable by this Commission, and Chapter 392 clearly authorizes different rates for different customer classes. In addition, business customers typically pay significantly more for their intrastate long distance service, and more for their total telecommunications in general. AT&T also does not incur the same access costs for many multi-line business customers as AT&T does for residential customers as a class. AT&T's position is that the ISCF is non-discriminatory based on the class distinction between residential and business customers, as well as the existing rate and cost differences between the two classes. *Rhinehart Direct*, page 14; *Rhinehart Surrebuttal*, pages 17 – 19, 25 – 30, 37.

2. Discrimination as between high volume and low (or no) volume users

OPC argues that the flat-rated nature of the ISCF discriminates against customers who have little or no usage. AT&T's position is that a flat rate structure for the ISCF is

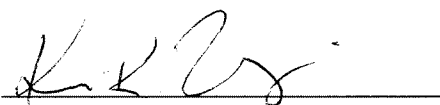
consistent with industry pricing standards and is in no way discriminatory as a result of the differing impacts on low and high volume users; such impacts are common in existing industry pricing schemes. AT&T is unaware of a flat rate structure ever having been found by this Commission to be discriminatory. Flat-rated, unmeasured rate structures currently abound in the telecommunications industry, and there are numerous reasons why a flat rate structure is reasonable, non-discriminatory, and in the public interest. *Rhinehart Direct, pages 11, 14; Rhinehart Surrebuttal, pages 23 - 24, 34 - 36, 37- 40.*

3. Discrimination as between rural and urban or suburban customers.

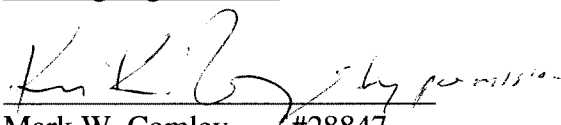
OPC's argument is that AT&T's exemption for its local exchange customers from the ISCF discriminates against rural customers because AT&T has allegedly targeted its local service offerings to "metropolitan and urban areas." AT&T's position is that AT&T is not required to provide local exchange service statewide, and its exemption from the ISCF for its local exchange customers is reasonable and non-discriminatory on the basis that such customers cause AT&T to incur only half of the access costs of a stand-alone long distance customer. Moreover, service bundling, including discounts for such bundles, is widely accepted. AT&T's local exchange offerings are available in all of the exchanges of SBC Missouri, not just urban exchanges, and there is no limitation on the availability of the ISCF exemption in rural areas where AT&T provides local service. *Rhinehart Direct, pages 13, 15; Rhinehart Surrebuttal, pages 40 – 45.*

WHEREFORE, AT&T respectfully submits its Statement of Positions for the Commission's consideration.

Respectfully submitted,



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Certificate of Service

I hereby certify that a true and correct copy of the above and foregoing document was sent via e-mail on this 10th day of August, 2005, to the following counsel of record: David Meyer, Senior Counsel MO PSC at david.meyer@psc.mo.gov; Mike Dandino, Office of Public Counsel at mike.dandino@ded.mo.gov and opcservice@ded.state.mo.us; Carl Lumley, Counsel for MCI at clumley@lawfirmemail.com; Brett Leopold, Counsel for Sprint, at brett.d.leopold@mail.sprint.com.



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