

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

In the Matter of Southwestern Bell Telephone, L.P.,	)	
d/b/a AT&T Missouri's Proposed Tariff to Extend a	)	Case No. _____
Promotional Offer for Metropolitan Calling Area Service	)	Tracking No. JI-2006-0641
for Residential Customers.	)	

**AT&T MISSOURI'S APPLICATION FOR REHEARING AND  
MOTION FOR EXPEDITED APPROVAL OF TARIFF**

COMES NOW Southwestern Bell Telephone, L.P., d/b/a AT&T Missouri ("AT&T Missouri") and for its Application for Rehearing and Motion for Expedited Approval of Tariff states as follows:

1. AT&T Missouri filed a tariff on February 22, 2006, to offer a reduced price for its Metropolitan Calling Area ("MCA") service to residential customers throughout the state. The tariff revision would extend the reduced price for MCA service to residential customers, currently in effect through March 7, 2006, through September 7, 2006. The tariff filing was a revision of P.S.C.Mo.-No. 24 Local Exchange Tariff, Sheet 1.0344. It was assigned Tracking No. JI-2006-0641.

2. The proposed price reduction for MCA service for residential customers was rejected in the Missouri Public Service Commission's ("Commission's") EFIS system. AT&T Missouri received an electronic mail response from Ms. Kim Happy advising that the tariff was rejected because "promotional tariff filings are not allowed on one-day filings pursuant to Commission discussion in agenda on February 7, 2006."

3. AT&T Missouri respectfully requests the Commission to review the purported rejection of the tariff and to approve the tariff on or before March 1, 2006. Immediate action is required by the Commission in order to permit the reduced price for MCA service for residential customers to remain in effect, as the current tariff offering a price reduction ends on March 7,

2006. It is critical that AT&T Missouri's customers be permitted to continue to receive a reduced price for MCA service in order to meet their needs and to permit AT&T Missouri to compete effectively in the marketplace. Failure to approve the tariff filing will have a deleterious effect on AT&T Missouri's ability to compete and will harm its customers.

4. The purported rejection of the tariff is wrong on two counts. First, the purported rejection of the tariff is contrary to the provisions of Section 392.500(1) which provides:

Any proposed decrease in rates or charges, or proposed change in any classification or tariff resulting in a decrease of rates or charges, for any competitive telecommunications service shall be permitted only upon the filing of the proposed rate, charge, classification or tariff after one days' notice to the commission.

The proposed tariff is an extension of a tariff previously filed on one days' notice which was permitted to go into effect and resulted in a decrease in the rate for optional MCA service. As a reduction in price, the statute requires a tariff to go into effect on one day' notice. Second, the Commission can act only through lawful orders adopted by a majority of the Commission. It cannot act through "discussions at an agenda meeting" which does not result in an order which can then be subject to an application for rehearing pursuant to Section 386.500 and, if necessary, to review pursuant to Section 386.510. Rejecting a tariff filing pursuant to the process employed here is simply not lawful.

5. The rejection of the proposed tariff cannot be justified on the basis of alleged "tension" between the provisions of Section 392.200.2 and Section 392.500(1). Section 392.200.2 provides that promotional tariff offerings are permitted upon approval of the Commission, while Section 392.500(1) provides the process and timeframe for that approval. Section 392.500(1) applies equally to price decreases resulting from promotional tariffs and to price decreases resulting from "permanent" tariffs and requires both to take effect on one days'

notice. The Commission has in the past allowed dozens if not hundreds of promotional tariffs resulting in price decreases to go into effect without a formal order of approval. The current effective tariff which offers a price reduction for MCA residential customers is but one example. The Commission can approve a tariff by specific order or by allowing a tariff to go into effect. Allowing a tariff to go into effect is a deemed approval of the tariff and is consistent with prior Commission actions in this regard.<sup>1</sup> But even if formal approval were required, Section 392.500(1) requires the Commission to do so on one days' notice. Moreover, an interpretation that a promotional price decrease requires formal approval while a "permanent" price decrease may go into effect on one day' notice cannot be consistent with legislative intent. It cannot seriously be argued that the Legislature has established a process which requires specific approval of a short-term promotional price decrease while mandating that a "permanent" price decrease for the same service must be allowed to go into effect on one days' notice.

6. With regard to the second issue raised by the rejection of this tariff, AT&T Missouri believes that it is clearly unlawful for the Commission to reject a tariff filing in a manner which does not permit rehearing pursuant to Section 386.500 or review pursuant to the provisions of Section 386.510. The Commission cannot lawfully act based upon "discussion in an agenda meeting." The Commission must issue an order which explains the rationale for its decision in a manner which permits an Application for Rehearing under Section 386.500 and review at the Circuit Court pursuant to Section 386.510. The purported "rejection" of the tariff by the administrative arm of the Commission does not satisfy the requirements of the statute.

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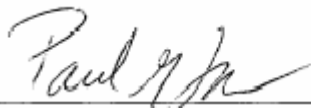
<sup>1</sup> Missouri courts have routinely and consistently upheld the lawfulness of rates under the "file and suspend" method authorized by statute. See: Jackson County v. Public Service Commission, 532 S.W.2d 20, 28-29 (Mo. banc 1975); State ex rel. St. Louis County Gas Co. v. Public Service Commission, 286 S.W. 84, 86 (Mo. 1926). A rate filed under the file and suspend becomes valid unless suspended by the Commission. State ex rel. Utilities Consumers Council v. Public Service Commission, 585 S.W.2d 41, 48 (Mo. banc 1979).

7. AT&T Missouri wishes to continue the price reduction for residential customers of MCA service beyond the March 7, 2006, expiration date of the current tariff price decrease. Accordingly, AT&T Missouri respectfully requests the Commission to act no later than March 1, 2006, on this Application for Rehearing and Motion for Expedited Approval in order that AT&T Missouri has sufficient time to take appropriate action to ensure that its customers continue to have a reduced price for MCA service available to them.

WHEREFORE, for all the foregoing reasons, AT&T Missouri respectfully requests the Commission to issue an order approving the proposed tariff reducing price for MCA service for residential customers on an expedited basis, but no later than March 1, 2006.

Respectfully submitted,

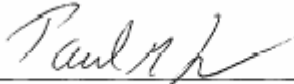
SOUTHWESTERN BELL TELEPHONE, L.P.,  
D/B/A AT&T MISSOURI

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**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing document were served to all parties by electronic mail on February 23, 2006.



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