

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

In the Matter of IntelPeer, Inc.'s Filing)
to Introduce Its Intrastate Switched Access)
Services Tariff.) Case No. _____

**AT&T COMPANIES' MOTION TO SUSPEND
AND INVESTIGATE TARIFF**

AT&T Communications and AT&T Missouri¹ respectfully request the Missouri Public Service Commission to suspend and investigate² a tariff filed by IntelPeer, Inc. to introduce its Intrastate Switched Access Services Tariff, P.S.C. Mo. No. 3.

The proposed tariff is vague and ambiguous in that it inadequately describes the service and how the rates will be applied. As written, the proposed tariff may call for charges to be imposed for access service components not actually provided; proposes excessive rates for 8YY Data Base Queries; and contains provisions allowing IntelPeer to impose charges for services that have not been requested or ordered.

The AT&T Companies are currently in discussions with IntelPeer in an attempt to resolve AT&T's concerns on a business-to-business basis. AT&T makes this filing to prevent the proposed tariff from going into effect by operation of law. If the tariff is suspended by the Commission, the AT&T Companies will continue the business-to-business effort to resolve this dispute.

1. Background on Movants. AT&T Communications is a Delaware corporation, duly authorized to conduct business in Missouri with its principal Missouri office located at 2121 East 63rd Street, Kansas City, Missouri 64130. AT&T Communications is an "interexchange

¹ AT&T Communications of the Southwest, Inc. will be referred to in this pleading as "AT&T Communications;" and Southwestern Bell Telephone Company, d/b/a AT&T Missouri, will be referred to in this pleading as "AT&T Missouri," (collectively, the "AT&T Companies").

² The AT&T Companies make this filing pursuant to 4 CSR 240-2.065(3) and 4 CSR 240.2-075(2).

telecommunications company,” an “alternative local exchange telecommunications company,” and a “public utility,” and is duly authorized to provide “telecommunications service” within the State of Missouri as each of those phrases is defined in Section 386.020 RSMo (2006 C. Supp.).

2. AT&T Missouri is a Missouri corporation duly authorized to conduct business in Missouri with its principal Missouri office located at One AT&T Center, 35th Floor, St. Louis, Missouri 63101. AT&T Missouri is a “local exchange telecommunications company” and a “public utility,” and is duly authorized to provide “telecommunications service” within the State of Missouri as each of those phrases is defined in Section 386.020 RSMo (2006 C. Supp.).

3. All correspondence, pleadings, orders, decisions and communications regarding this proceeding should be sent to:

Jeffrey E. Lewis
Leo J. Bub
Robert J. Gryzmala
Attorneys for AT&T Communications of the Southwest, Inc.; and
Southwestern Bell Telephone Company, d/b/a AT&T Missouri
One AT&T Center, Room 3518
St. Louis, Missouri 63101

4. IntelPeer's Tariff Filing. On February 11, 2011, IntelPeer filed tariff sheets to introduce its Intrastate Switched Access Services Tariff, P.S.C. Tariff No. 3.³ The proposed tariff bears a March 13, 2011 effective date.

5. In most cases, interexchange carriers (“IXCs”) cannot avoid the access charges imposed by other companies under tariffs like the one filed by IntelPeer for its proposed offering. AT&T Communications and other IXCs wishing to originate calls from and terminate calls to end users served by an access service provider have no choice but to use that access provider’s service (e.g., IntelPeer) to reach those end users. Similarly, IXCs providing 8YY service (like AT&T) cannot avoid IntelPeer’s proposed charges for an 8YY call coming through

³ A copy of IntelPeer’s proposed tariff filing is appended as Attachment 1.

IntelPeer's network. And AT&T's and other carriers' customers have to bear those costs. As such, the Commission should ensure that such charges and practices are reasonable, follow industry requirements, and do not exceed statutory limitations.

6. The concerns IntelPeer's filing raises include:

(a) Disaggregation Needed to Avoid Overbilling.

The proposed tariff contains aggregated rates that appear to combine multiple rate elements into a single rate element with virtually no explanation of the nature of its network, where the traditional switched access functions for which it seeks to charge are being performed, or how the rates were developed. Section 3.1.2 of the Access Services portion of the tariff sets out "Carrier Common Line, Local Transport, and End Office" as "rate categories" that generally "apply to all forms of switched. . . . (sic)"⁴ Section 3.1.2(A) provides a specific definition of Carrier Common Line:

The Carrier Common Line rate category provides for the use of Company common lines by Customers for access to end users to furnish Customer intrastate communications. Carrier Common Line is provided where Customer obtains Company provided Switched Access Service.⁵

But the rate portion of the tariff (Section 5.1.2) provides per minute usage rates only for "Tandem Service" and "End Office Service."⁶ And neither the specific rate elements that make up these aggregated rates nor the method used to calculate them was provided.

At a minimum, these rates should be disaggregated to ensure that only those parts of the blended rate applicable to particular traffic arrangements are charged. Without disaggregating, it would be impossible to ensure IntelPeer does not charge for services or functions it does not

⁴ IntelPeer tariff, sheet 70.

⁵ Id.

⁶ Id., at sheet 101.

perform or to ensure that IntelPeer's access rates do not exceed those of the incumbent LEC with whom IntelPeer is competing, as required by Section 392.361.6 RSMo.

Disaggregation is of particular concern here, as AT&T understands IntelPeer plans to serve as a transiting provider for other carriers. Under this business model, IntelPeer would not have end users and would not be supplying a common line. Disaggregation would help the Commission discern whether the carrier common line access element is being appropriately applied in situations where the carrier either does or does not physically provide the end user's line.

(b) Excessive Query Charges.

In principle, the introduction of additional network providers should result in the reduction of costs for carriers and benefit end users. However, IntelPeer's new Toll-Free 8YY Data Base Query charge of \$0.005 per query⁷ substantially exceeds the charges of other carriers for similar services. For example, AT&T Missouri's per query rate is .0031⁸ Windstream's rate is \$0.003713 per query;⁹ and Bandwidth.com's rate is \$0.002531 per query¹⁰. IntelPeer's rate should at least mirror, if not reduce, the incumbent AT&T Missouri's rate. However, as a new entrant with the newest and most efficient network facilities, IntelPeer is most similarly situated to Bandwidth.com, another new entrant, whose per query rate would be the most appropriate.

Although IntelPeer claims it is introducing its 8YY Traffic Service as a new service, this type of function is not new to the industry. It is being offered today by other Telecommunications carriers at much lower cost to AT&T and other IXC's. It is unreasonable

⁷ Id., Section 5.1.5(A), at Sheet 110.

⁸ Southwestern Bell Telephone Company Access Services Tariff, P.S.C. Mo-No. 36, Section 6.11.7, 1st Revised Sheet 95, Effective April 11, 1993.

⁹ Windstream Missouri Intrastate Access Tariff, Mo. P.S.C. No. 3, Section 17.2.2(D), 4th Revised Page 412, effective December 13, 1998.

¹⁰ Bandwidth.com CLEC, LLC Missouri Access Services Tariff, Missouri P.S.C. Tariff No. 1, Section 5.4.4, Original Sheet 49, Effective June 24, 2010.

that IntelPeer can inject itself into an existing call flow and drive higher costs on AT&T's customers when AT&T cannot reject IntelPeer's offering because of regulatory restrictions prohibiting call blocking, and AT&T could not choose to stay with the existing lower cost 8YY aggregation function offered by IntelPeer's competitors. IntelPeer should not be allowed to take advantage of the fact that AT&T and other IXCs are captive customers in this type of network setup. IntelPeer's attempt to impose added and unneeded costs through this tariff filing will, if permitted, only put upward pressure on retail end users toll prices.

(c) Involuntary Subscription to Tariff Services.

The proposed tariff improperly includes provisions allowing IntelPeer to render access charges to another company without the other company having requested and ordered access services from IntelPeer. See Section 1, definition of "Constructive Order" (Sheet 3); and Section 2.1.3(G) of the Terms and Conditions, imposing a presumption that a carrier has initiated a "constructive order for access services." The existence of these types of provisions in a similar tariff filed in Colorado was sufficient for the Colorado Public Utility Commission to reject the proposed tariff.¹¹

7. The AT&T Companies' interests as telecommunications service providers differ from those of the general public. AT&T Communications pays IntelPeer both originating and terminating intrastate switched access rates on intrastate interexchange calls placed by their customers. AT&T Missouri pays IntelPeer intrastate terminating switched access rates to terminate intrastate interexchange calls placed by AT&T Missouri's customers. The AT&T

¹¹In the Matter of Advice Letter No. 1 Filed by Bandwidth.com CLEC, LLC as an initial Tariff Filing to be Effective on October 10, 2009, Order Rejecting Advice Letter and Tariff Pages, Docket No. 09AL-660T, Decision No. C09-1158, adopted October 7, 2009. Bandwidth.com also attempted to impose similar provisions in its Missouri tariff but withdrew those provisions when the MoPSC initiated a proceeding to review the tariff. See MoPSC Case No. IT-2010-0127.

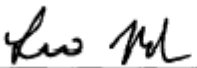
Companies have a significant financial interest in ensuring that IntelPeer's intrastate switched access rates are lawful and appropriate. No other party to this proceeding will adequately protect the AT&T Companies' interests.

8. Granting of this intervention will be in the public interest because the AT&T Companies will bring to this proceeding their experience as telecommunications providers and their expertise in analyzing tariffs, which should assist the Commission in its review of IntelPeer's filing.

WHEREFORE the AT&T Companies respectfully request the Commission to suspend IntelPeer's proposed tariff filing for investigation.

Respectfully submitted,

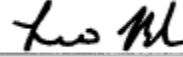
AT&T COMMUNICATIONS OF THE SOUTHWEST
INC., and
SOUTHWESTERN BELL TELEPHONE COMPANY,
D/B/A AT&T MISSOURI

BY 
JEFFREY E. LEWIS #62389
LEO J. BUB #34326
ROBERT J. GRYZMALA #32454

Attorneys for AT&T Missouri and AT&T Communications
One AT&T Center, Room 3518
St. Louis, Missouri 63101
314-235-2508 (Telephone)/314-247-0014(Facsimile)
leo.bub@att.com

CERTIFICATE OF SERVICE

Copies of this document were served on the following parties by e-mail on March 8, 2011.



Leo J. Bub

General Counsel
Missouri Public Service Commission
PO Box 360
Jefferson City, MO 65102
general.counsel@psc.mo.gov

Public Counsel
Office of the Public Counsel
PO Box 7800
Jefferson City, MO 65102
opcservice@ded.mo.gov

Julie Barghouthi
Sr. Vice President Product Development
And Access Management
IntelePeer, Inc.
2855 Campus Drive, Suite 200
San Mateo, DA 94403
jbarghouthi@intelepeer.com