

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

In the Matter of the Tariff Filing of Southwestern)	
Bell Telephone Company, d/b/a AT&T Missouri,)	Case No. TT-2008-0370
Introducing a Convenience Fee for Assistance in)	Tariff No. JI-2008-0702
Processing a Business Payment)	

**AT&T MISSOURI’S RESPONSE TO THE OFFICE OF PUBLIC COUNSEL’S
MOTION TO REJECT TARIFF**

AT&T Missouri¹ respectfully submits this response to the motion of the Office of Public Counsel² to reject AT&T Missouri’s above-referenced tariff. The tariff would authorize charging a \$5 convenience fee when a business customer chooses to utilize an AT&T Missouri representative to perform the data entry and related work necessary to make a bill payment. As is the case today, there would still be no charge when the customer (rather than a company representative) enters the pertinent data via the company’s interactive voice response (“IVR”) system or web site; makes payment via U.S. mail; or makes payment via automatic payment arrangements. OPC’s motion should be denied and the Commission should approve AT&T Missouri’s proposed tariff.

Just a few months ago, an identical AT&T Missouri tariff filing applicable to residence customers drew no objection, and the tariff was allowed to take effect on December 17 of last year.³ OPC presents no reasons suggesting why this tariff proposal applicable to business customers, which is merely an extension of the currently effective tariff applicable to residence customers, should be treated any differently.

¹ Southwestern Bell Telephone Company, d/b/a AT&T Missouri (“AT&T Missouri”).

² The Office of Public Counsel (“OPC”).

³ See, Tariff JI-2008-0323, AT&T Missouri’s P.S.C. Mo. - No. 35, General Exchange Tariff, Section 17.6.1.A (12th Revised Sheet 12.01) (authorizing billing residence customers in competitive exchanges a \$5 convenience fee “when the subscriber requests a Company Representative’s assistance in processing a payment”).

It is also noteworthy that the same convenience fee is already authorized by effective AT&T ILEC tariffs in three of the other four Southwestern Bell states of Arkansas, Kansas, Oklahoma and Texas (the fourth of which required no tariff).⁴ OPC's motion thus finds no support among any of these states' public utility commissions.

OPC claims that the proposed tariff is "vague" in that it does not give fair written notice of those instances in which the fee would apply. OPC Motion, at 1. OPC is incorrect. The tariff expressly states that the fee applies "in each instance when the subscriber requests a Company Representative's assistance in processing a payment." It further provides that the charge "will not apply to payments made via the automated payment option of the Company's interactive voice response (IVR) systems, payments made online via the Company's website, or payments made by mail." Read as a whole, the tariff language makes abundantly clear that the fee would apply only where a company representative performs the data entry and related work necessary to process a payment, at the request of the customer. On the other hand, the fee would not apply where a live representative is not requested to (and thus does not) perform this work, i.e., where the customer performs the work necessary to process an IVR or online payment, or makes payment through the regular mail.

OPC also claims the tariff does not address whether the fee will apply if "the customer was not advised of that new fee." OPC Motion, at 1. However, the tariff language also adequately addresses this point. It states that "[t]he subscriber will be informed by the Company Representative of the charge prior to processing the subscriber's payment." Fairly read, this

⁴ The fee for residential subscribers is tariffed and thus effective in Texas, Arkansas, and Kansas. The fee is not required to be tariffed in Oklahoma, but is in place for residence customers and will be effective for Oklahoma business customers in June. Tariff filings applicable to Texas, Arkansas and Kansas business customers will be submitted shortly.

language means that the Company's having informed the customer of the applicable charge in accordance with this commitment is a condition precedent to imposing the charge.

Once informed of the applicable charge, the business customer has the option to decline the company representative's assistance, and to process his or her own payment instead. If the customer chooses to do so, the AT&T Missouri representative will make that choice easy to exercise, by transferring the customer, at no charge, to the company's IVR system where the customer can make his or her bill payment for free. Alternatively, once notified of the convenience fee, the business customer has the opportunity at the time to hang up and make the payment via the web or by mail.

Finally, OPC broadly argues that the proposed tariff is contrary to public policy and to consumer expectations, but no facts of any sort are asserted in support of these sweeping opinions. OPC also argues that it is "reasonable" for AT&T Missouri to absorb the fee as a "cost of doing business." AT&T Missouri disagrees. As noted above, a customer has multiple "no-fee" options by which to make a bill payment, unassisted by a company representative. In light of these options, it is difficult to conclude that a reasonable customer would expect no fee to be imposed where one bypasses all of these no-fee options in favor of having a live company representative process the payment for him or her. If a customer does not want to pay the fee, he or she does not have to do so and can instead make payment by any of the available no-fee options.

OPC's policy-related concerns miss the mark for other reasons as well. The proposed tariff expressly provides that it would apply only "in exchanges classified as competitive as detailed in Section 32 of this tariff." The legislature has determined that "[i]f the services of an incumbent local exchange telecommunications company are classified as competitive . . . , the

local exchange telecommunications company may thereafter adjust its rates for such competitive services upward or downward as it determines appropriate in its competitive environment[.]” *See*, §392.245.5(6), RS Mo. (Cum. Supp. 2007); *see also*, Order Denying Motion to Reject Tariff, Case No. TT-2008-0062, September 6, 2007, at 3 (“The legislature has provided that if the services in the exchange are designated as competitive, AT&T Missouri may raise or lower its prices ‘as it deems appropriate.’”). Without question, AT&T Missouri’s proposal is authorized by applicable law.


OPC claims that Commission Rule 3.545(15) (4 CSR 240-3.545(15)) requires both that a copy of the notification advising customers of a rate increase be submitted to the Commission, and a positive written affirmation be made that the notice was sent or will be sent at least ten days in advance of the rate’s effective date. OPC, however, fails to identify the portion of the rule which excuses written notice in this instance: “Written notification is not required if the affected service with the rate increase regularly announces the applicable rate prior to each time the customer uses the service.” The tariff commitment to inform the customer of the charge prior to a representative’s undertaking to provide the service of processing the bill payment falls squarely within this language. Indeed, oral rather than written notification may well be even more effective here, to the extent that the customer can make a real time, informed decision rather than rely on recall of a written notice that was received ten or more days (and perhaps months, if not longer) prior to the conversation with the company’s representative.⁵

⁵ While AT&T Missouri is not required to provide customer notice in this instance, it nevertheless provided written customer notice to its business customers. Attached hereto as Exhibit 1 is a copy of the customer notice which AT&T Missouri began mailing on May 23. and which mailing will have been fully completed in advance of June 23, the tariff’s scheduled effective date.

For the foregoing reasons, AT&T Missouri respectfully submits that OPC's motion should be denied and the Commission should approve (or permit to go into effect) AT&T Missouri's convenience fee tariff.

Respectfully submitted,

Southwestern Bell Telephone Company
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CERTIFICATE OF SERVICE

A copy of this document was served on each of the following parties by e-mail on June 2, 2008.


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