

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

In the Matter of the Tariff Filing of SBC)	
Missouri Revising P.S.C. Mo.-No. 26,)	
Long Distance Message)	Case No. IT-2003-0484
Telecommunications Service Tariff to)	Tariff No. JI-2003-1953
change rates for several Operator)	
Assistance services and local toll services)	

In the matter of the tariff filing of)	
SBC Missouri revising P.S.C. Mo.-No. 24)	Case No. IT-2003-0485
Local Exchange Tariff to change rates for)	Tariff No. JI-2003-1954
several Operator Assistance services.)	

**SBC MISSOURI'S OPPOSITION
TO OPC MOTIONS TO REJECT OR SUSPEND TARIFFS**

SBC Missouri¹ respectfully opposes Office of the Public Counsel's ("OPC's") May 13, 2003 Motions to Reject or in the Alternative Suspend two tariff filings SBC Missouri made on May 9, 2003. Contrary to OPC's claims, these tariff filings comply with state tariff filing requirements and the Missouri Public Service Commission ("Commission") should allow the tariffs to go into effect as proposed.

1. In its Motions, OPC claims SBC Missouri's proposed tariff "failed to comply with PSC Rule 4 CSR 240-30.010 Rate Schedules (25)"² that mandates the filing a brief summary setting forth the effect on its customers and that requires the Company to provide Public Counsel

¹ Southwestern Bell Telephone, L.P., d/b/a SBC Missouri, will be referred to in this pleading as "SBC Missouri" or "SBC."

² Rule 4 CSR 240-30.010(25) provides:

All changes in rates, charges or rentals or in rules that affect rates, charges or rentals, shall be filed with the commission at least thirty (30) days before the date upon which they are to become effective. The title page of every rate schedule or supplement and the reissue of any page or sheet must show thirty (30) days' notice except as otherwise provided in this rule. **The proposed changes shall be accompanied by a brief summary, approximately one hundred (100) words or less, of the effect of the change on the company's customers. A copy of any proposed change and summary also shall be served on the public counsel** and be available for public inspection and reproduction during regular office hours at a public business office of the utility in each exchange or group of exchanges affected by the proposed change. (Emphasis added by OPC).

with a copy of the summary.”³ Specifically, OPC claims the “Company did not file the required summary and did not serve Public Counsel with a copy of the summary.”⁴ In addition, OPC claims SBC Missouri failed to show it provided the customer notice required by Section 392.500 (2).⁵

2. OPC is mistaken. SBC Missouri, as it has been doing for years, filed a cover letter with each of its proposed tariffs briefly summarizing the changes:

- SBC Missouri’s cover letter for the proposed tariff at issue in Case No. IT-2003-0484 (Tariff No. JI-2003-1953) explained, “SBC is changing the rates for several Operator Assistance services and local toll services.” And SBC Missouri specifically marked each of these rate changes on the attached three-page tariff filing with a “CR,” the abbreviation for “Changed Rate.”
- SBC Missouri’s cover letter for the proposed tariff at issue in Case No. IT-2003-0485 (Tariff No. JI-2003-1954), explained, “SBC is changing the rates for several Operator Assistance services.” And again, SBC Missouri specifically marked each of these rate changes on the attached two-page tariff filing with a “CR.”

As reflected in OPC’s references to the tariff filings and “accompanying” cover letters, OPC received SBC Missouri’s service copies of these filings.⁶

3. SBC Missouri also provided the following bill page messages to customers notifying them of each of the proposed changes. These notices appeared in the March 29 through April 27, 2003 bill cycles:

- **Important Message for SBC Missouri Basic Local Toll Customers**
Effective May 21, basic local toll rates will be changing. The new day rate will be 25 cents instead of 24 cents, the new evening rate will be 20 cents instead of 17 cents and the night/weekend rate will be 15 cents instead of

³ OPC Motions, p. 1.

⁴ *Id.*, p. 2.

⁵ Section 392.500 (2) requires "notice to all potentially affected customers through a notice in each such customer's bill at least ten days prior to the date for implementation of such increase or change, or, where such customers are not billed, by an equivalent means of prior notice."

⁶ SBC Missouri filed the tariffs at issue here late in the day on May 9, 2003. SBC Missouri hand delivered copies of these tariffs and their accompanying cover letters to OPC the morning of the next business day. It is SBC Missouri’s understanding that OPC is contesting the content of these filings, not the timeliness of their service.

14 cents. For questions regarding this change, please call your service representative at 1-800-585-7928.

- **Important Message for SBC Missouri Basic Local Toll Customers**
Effective May 21, SBC Missouri announces the following rate adjustments for Missouri business customers. Basic local toll rates will be 28 cents per minute during the day rate period, 19.4 cents per minute during the evening rate period and 19.4 cents per minute during the night/weekend rate period. For questions regarding this change, please call your service representative at 1-800-559-7928.
- **OS SURCHARGE RATE CHANGES**
Effective 5/6/03, the rates for SBC Operator Surcharges on collect, third number, person-to-person, sent-paid and calling card calls for residential and business customers will change. For details on the OS Surcharge rate changes, please contact the SBC office at the number shown on your bill.

4. As the Commission is aware from its long experience with SBC Missouri's tariff filings, the tariff cover letter summaries and the customer notices SBC Missouri used in this case are consistent with what SBC Missouri has historically provided. Moreover, these tariff summaries and customer notices conform to what the Commission found compliant this past February in its review of several VarTec Telecom tariff filings. In reviewing a very similar claim brought by OPC against a proposed tariff filed by VarTec, the Commission ruled:

the Commission has examined the cover letter submitted with VarTec's tariff and finds that it does not violate Commission rule 4 CSR 240-30.010(25) as alleged by Public Counsel. VarTec's cover letter contains a reference to the access fee and the company has provided the customer notice as required in Section 392.500.2, RSMo. Therefore, the Commission determines that Public Counsel's motion should be denied.⁷

⁷ In the Matter of VarTec Telecom, Inc., d/b/a Clear Choice Communications' Proposed Tariff to Add New Monthly Usage Fees, Case No. XT-2003-0267, Order Suspending Tariff, issued February 13, 2003. While the Commission denied OPC's motion to suspend, the Commission on its own motion suspended the tariff for VarTec Telecom's failure to pay its Commission assessment in violation of Section 386.370.3 RSMo 2000 until the company paid the assessment. The Commission treated another VarTec Telecom tariff in the same manner. See, Case No. LT-2003-0268.

Like VarTec's cover letter, SBC Missouri's cover letter contains a reference to the subject matter of the tariff changes (here, Operator Assistance Services and local toll services) and should be found compliant with the Commission's current tariff filing rules.

5. Given that the Commission has recently initiated a rulemaking proceeding for the purpose of considering amendments to rule 4 CSR 240-3.545 (formerly 4 CSR 240-30.010)⁸, any desired change in tariff filing requirements should be addressed on a generic basis during the course of the rulemaking rather than on an ad hoc basis in a tariff case.

6. The Commission's May 14, 2003 Order Directing Filing also instructed the parties to address the issue of "whether or not the proposed sheets should be rejected because not filed on 30 days' notice to the Commission."⁹

7. Thirty days' notice is not required for the tariffs at issue here. A proposed tariff that increases rates or charges of competitive telecommunications services like Operator Services or intraLATA toll is governed by Section 392.500(2) RSMo. (2000). That statute allows a proposed tariff increasing rates or charges to go into effect after the proposed tariff has been filed with the Commission and the affected customers are given at least ten days' notice. As shown in paragraph 3 above, the notices SBC Missouri sent to its customers in this case comply with the technical requirements of Section 392.500(2).

⁸ See, Order Consolidating Cases and Finding Necessity for Rulemaking, Case Nos. TX-2003-0237 and TX-2003-0379, issued April 22, 2003.

⁹ Order Directing Notice, p. 2.

WHEREFORE, SBC Missouri respectfully requests the Commission to deny OPC's Motions to Reject or in the Alternative Suspend and to allow SBC Missouri proposed tariffs to go into effect as proposed.

Respectfully submitted,

SOUTHWESTERN BELL TELEPHONE L.P.

BY



PAUL G. LANE #27011

LEO J. BUB #34326

ANTHONY K. CONROY #35199

MARY B. MACDONALD #37606

Attorneys for Southwestern Bell Telephone L.P.

One SBC Center, Room 3518

St. Louis, Missouri 63101

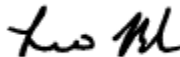
(314) 235-2508 (Telephone)

(314) 247-0014 (Facsimile)

leo.bub@sbccom.com

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing document were served on counsel for all parties below by e-mail on May 16, 2003.



Leo J. Bub

DANA JOYCE
DAVID A. MEYER
MISSOURI PUBLIC SERVICE COMMISSION
P. O. BOX 360
JEFFERSON CITY, MO 65102-0360

MICHAEL DANDINO
OFFICE OF THE PUBLIC COUNSEL
P. O. BOX 7800
JEFFERSON CITY, MO 65102