

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

| | | |
|----------------------------------|---|-----------------------|
| BARRY ROAD ASSOCIATES, INC., |) | |
| D/B/A MINSKY'S PIZZA |) | |
| |) | |
| AND |) | |
| |) | |
| THE MAIN STREET ASSOCIATES, INC. |) | |
| D/B/A MINSKY'S PIZZA |) | |
| |) | |
| AND |) | |
| |) | CASE NO. TC-2011-0396 |
| HARRY MARK WOOLDRIDGE, |) | |
| |) | |
| COMPLAINANTS, |) | |
| |) | |
| VS. |) | |
| |) | |
| SOUTHWESTERN BELL TELEPHONE |) | |
| COMPANY, D/B/A AT&T MISSOURI, |) | |
| |) | |
| RESPONDENT. |) | |

AT&T MISSOURI'S MOTION FOR SUMMARY DISPOSITION

AT&T Missouri,¹ pursuant to 4 CSR 240-2.117, respectfully moves the Missouri Public Service Commission ("PSC") to grant summary disposition in favor of AT&T Missouri with respect to the Complaint filed by Complainants. In support of its Motion, AT&T Missouri states as follows:

1. On June 20, 2011 Complainants filed a Complaint with the PSC, pursuant to an Order of the Honorable Anne Mesle, Judge of the Circuit Court of Jackson County, Missouri dated April 4, 2011 (Exhibit A to the Complaint) (hereinafter the "Order"). Specifically, the Order stayed the underlying proceeding to allow the Complainants to seek a ruling from the

¹ Southwestern Bell Telephone Company, d/b/a AT&T Missouri, will be referred to in this pleading as "AT&T Missouri."

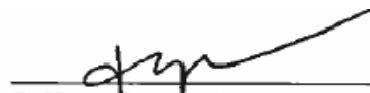
Missouri Public Service Commission (“PSC”) to determine the sole issue of “whether the settlement payments made by AT&T [Missouri] are to be passed through to AT&T [Missouri] customers pursuant to 17.11 General Exchange Tariff 35 or similar and related tariffs.” (Exhibit A to the Complaint at 8). The Complaint seeks a determination of whether back-tax surcharges billed by AT&T Missouri may be passed through to its customers.

2. The back-tax surcharge at issue is mandated under a tariff approved by the PSC. *See* Exs. 1 and 2. Because the material facts in this case are uncontroverted, and because the back-tax surcharges are mandated under a tariff approved by the PSC, the PSC should find that the back tax surcharge is required to be passed through to AT&T Missouri customers.

3. In further support of this Motion, AT&T Missouri files herewith and incorporates herein by reference its Memorandum in Support of its Motion for Summary Disposition.

WHEREFORE, AT&T Missouri respectfully requests that the PSC enter an Order granting summary disposition in its favor and with respect to Complainants’ Complaint. It also requests such other and further relief as the PSC deems just and proper under the circumstance.

SOUTHWESTERN BELL TELEPHONE COMPANY
d/b/a AT&T MISSOURI



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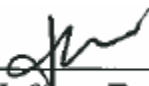
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CERTIFICATE OF SERVICE

Copies of this document were served on the following parties by e-mail on July 27, 2011.



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General Exchange Tariff
Section 17
Original Sheet 26

No supplement to this
tariff will be issued
except for the purpose
of canceling this tariff.

RULES AND REGULATIONS APPLYING TO ALL CUSTOMERS' CONTRACTS

17.10 TERMINATION OF CONTRACTS-(Continued)

17.10.5 General Provisions-(Continued)

- B. The service is furnished subject to the condition that it not be used for an unlawful purpose. Service will not be furnished if any law enforcement agency, acting within its jurisdiction, advises that such service is being used or will be used in violation of law or if the Telephone Company receives other evidence convincing to it that such service is being or will be so used.
- C. Abandonment of equipment or service by a customer is regarded by the Telephone Company as a voluntary termination of the contract.
- D. If it is deemed necessary by the Telephone Company, in compliance with Paragraphs 17.4.2, A. and/or B., customers may be required to provide security satisfactory to the Telephone Company in the amount sufficient to guarantee payment of the termination charge. If a cash deposit is made, simple interest at the rate of nine (9) percent per annum will be paid on deposits held thirty (30) days or more.

17.11 SPECIAL TAXES, FEES AND CHARGES

There shall be added to the customer's bill or charge, as a part of the rate for service, a surcharge equal to the pro rata share of any franchise, occupation, business, license, excise, privilege or other similar tax, fee or charge (hereafter called "tax") now or hereafter imposed upon the Telephone Company by any taxing body or authority, whether by statute, ordinance, law or otherwise and whether presently due or to hereafter become due.

On and after the effective date thereof, any subsequent increase, decrease, imposition or determination of liability for such taxes, fees or charges as described above shall be applied, in the manner provided below, to the customer's bill or charge on each individual billing date.

When such tax or taxes are imposed in terms of a flat sum payment of money, the surcharge applicable to each customer's bill or charge, as the pro rata share of such taxes described above, shall be determined by relating the flat sum payment to the total local exchange revenues within the jurisdiction of the taxing body; the fraction so described

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EXHIBIT

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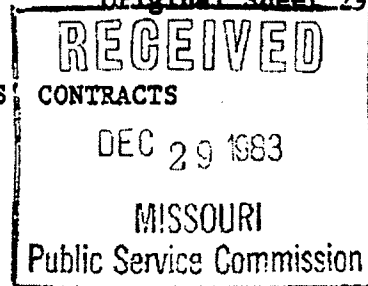
By R. D. BARRON, Vice President-Missouri
Southwestern Bell Telephone Company
St. Louis, Missouri

No supplement to this tariff will be issued except for the purpose of canceling this tariff.

General Exchange Tariff

Section 17

Original Sheet 29



RULES AND REGULATIONS APPLYING TO ALL CUSTOMERS

17.12 SPECIAL SERVICE ARRANGEMENTS-(Continued)

17.12.2 Rates-(Continued)

A. Computation-(Continued)

4. In computing the rates for special service arrangements, the Telephone Company will, at its option, use one of the following three rate treatments: (1) a recurring monthly rate and termination contract with or without an installation charge; (2) a recurring monthly rate with an installation charge; (3) an installation charge only.

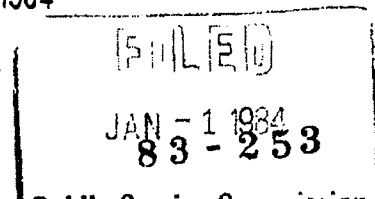
17.12.3 Termination Contract

A Termination Contract may apply in those cases where non-recoverable costs are substantial. Non-recoverable cost is equivalent to the estimated installed cost, plus removal cost less immediate salvage value.

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By R. D. BARRON, Vice President-Missouri
Southwestern Bell Telephone Company
St. Louis, Missouri



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General Exchange Tariff
Section 17
1st Revised Sheet 26
Replacing Original Sheet 26

RULES AND REGULATIONS APPLYING TO ALL CUSTOMERS' CONTRACTS

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17.10 TERMINATION OF CONTRACTS--(Continued)

SEP 6 1991

17.10.5 General Provisions--(Continued)

MISSOURI

Public Service Commission

- (FC) C. The service is furnished subject to the condition that it will not be used for an unlawful purpose. Service will not be furnished if any law enforcement agency, acting within its jurisdiction, advises that such service is being used or will be used in violation of law or if the Telephone Company receives other evidence convincing to it that such service is being or will be so used.
- (FC) D. Abandonment of equipment or service by a customer is regarded by the Telephone Company as a voluntary termination of the contract.
- (FC) E. If it is deemed necessary by the Telephone Company, in compliance with Paragraphs 17.4.2, A. and/or B., customers may be required to provide security satisfactory to the Telephone Company in the amount sufficient to guarantee payment of the termination charge. If a cash deposit is made, simple interest at the rate of 9 percent per annum will be paid on deposits held 30 days or more.
- (C)
- (C)

17.11 SPECIAL TAXES, FEES AND CHARGES

There shall be added to the customer's bill or charge, as a part of the rate for service, a surcharge equal to the pro rata share of any franchise, occupation, business, license, excise, privilege or other similar tax, fee or charge (hereafter called "tax") now or hereafter imposed upon the Telephone Company by any taxing body or authority, whether by statute, ordinance, law or otherwise and whether presently due or to hereafter become due.

On and after the effective date thereof, any subsequent increase, decrease, imposition or determination of liability for such taxes, fees or charges as described above shall be applied, in the manner provided below, to the customer's bill or charge on each individual billing date.

When such tax or taxes are imposed in terms of a flat sum payment of money, the surcharge applicable to each customer's bill or charge, as the pro rata share of such taxes described above, shall be determined by relating the flat sum payment to the total local exchange revenues within the jurisdiction of the taxing body; the fraction so described

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Effective: OCT 6 9 1991

FILED

OCT 8 1991

By R. D. BARRON, President-Missouri Division
Southwestern Bell Telephone Company
St. Louis, Missouri

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EXHIBIT

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No supplement to this tariff will be issued except for the purpose of canceling this tariff.

General Exchange Tariff
Section 17
Original Sheet 27

RULES AND REGULATIONS APPLYING TO ALL CUSTOMERS' CONTRACTS

17.11 SPECIAL TAXES, FEES AND CHARGES--(Continued)

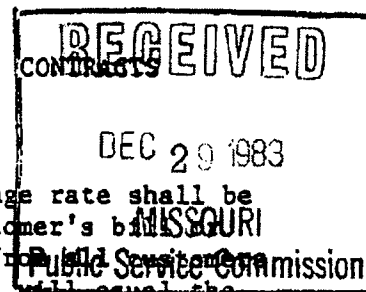
shall be converted to a percentage; the local exchange rate shall be increased by that percentage and applied to the customer's bill as a charge, so that the amount added, when accumulated from all sources, and the amount of the flat sum payment.

When such tax or taxes are imposed in terms of a percentage of revenues or gross receipts, the surcharge applicable to each customer's bill or charge as the pro rata share of such taxes described above shall be determined by dividing the tax expressed as a percentage by 100 percent minus the tax expressed as a percentage and multiplying the decimal thus obtained by the customer's charges to which such tax applies.

$$\left(\frac{\text{Tax}\%}{100\% - \text{Tax}\%} \right) \times \text{Taxable Charges}$$

The tariff charge constituting the amount of the surcharge provided for herein shall be stated separately on each customer's bill.

Where more than one tax, fee or charge is imposed by a taxing body or authority, the total of such surcharge applicable to a customer may be billed to the customer as a single amount.



Issued: DEC 29 1983

Effective: JAN 01 1984

By R. D. BARRON, Vice President-Missouri
Southwestern Bell Telephone Company
St. Louis, Missouri