

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

In the Matter of Southwestern Bell	)	
Telephone Company's Tariff Filing to	)	Case No. TT-2003-0093
Initiate Residential Customer Promotion.	)	Tariff File No. 200300117

**SOUTHWESTERN BELL TELEPHONE, L.P.**  
**D/B/A SOUTHWESTERN BELL TELEPHONE COMPANY'S**  
**RESPONSE TO MOTION TO SUSPEND AND REJECT TARIFF FILING**

Comes now Southwestern Bell Telephone, L.P., d/b/a Southwestern Bell Telephone Company ("SWBT") and, for its Response to Motion to Suspend and Reject Tariff Filing, states as follows:

1. On August 16, 2002, SWBT submitted a proposed 11th Revised Sheet 1 to its Local Exchange Tariff Appendix P.S.C. Mo. No. 24. Under this promotion, for the period September 16, 2002, to September 15, 2003, SWBT proposes to offer new residence customers who subscribe to a flat rate access line or additional line, Caller ID Name and Number, Speed Call 8, and MCA 3, 4, or 5 service, a discounted monthly price of \$30.00. Specifically, new residential customers will receive this promotional price for 12 consecutive months starting from the date of installation so long as the customer continues to subscribe to all of the services listed above. If the customer disconnects any of the services listed above or the services are disconnected for non-payment, the services will revert back to normal tariff prices. Standard installation charges are applicable.

2. On September 6, 2002, the Staff of the Missouri Public Service Commission ("Staff") filed its Motion to Suspend and Reject Tariff Filing ("Motion"). In its Motion, Staff recommends suspension of SWBT's proposed tariff on the bases that:

(1) the proposed promotion "could be viewed as essentially a winback-type of

promotion"<sup>1</sup> that SWBT could offer only to customers currently receiving service from a CLEC; and (2) this promotion concerns the pricing of the MCA plan, which is currently under dispute in Case No. TT-2002-447, In the Matter of the Tariff Filing of Sprint, Missouri, Inc., d/b/a Sprint to Increase the Residential and Business Monthly Rate for the Metropolitan Calling Area (MCA) Plan.<sup>2</sup> In SWBT's view, Staff's Motion is not well-taken.

3. First, by its express terms, it is clear that SWBT's promotion is available to "all new residential customers."<sup>3</sup> Thus, as Staff admits<sup>4</sup>, this promotion is available to any customer who does not currently have service from SWBT and is not limited to customers seeking to return to SWBT after subscribing to service from a CLEC. In other words, this is a generally available tariff; it, quite simply, is not a winback tariff. Although Staff claims SWBT "could offer this promotion only to customers currently receiving service from a CLEC"<sup>5</sup>, this promotion is available to any new residential customer who orders the specified services.

4. SWBT notes that the Commission has routinely approved such promotions in the past. For example, see P.S.C. Mo. No. 24, Local Exchange Tariff; 20th Revised Sheet 1.01, P.S.C. Mo. 24; Local Exchange Tariff, 14th Revised Sheet 1.01; P.S.C. Mo. 24, Local Exchange Tariff, 8th Revised Sheet 1.01; P.S.C. Mo. 24, Local Exchange Tariff, 3rd Revised Sheet 1.01; P.S.C. Mo. No. 35, General Exchange Tariff, Section 54, Original Sheet 6; and P.S.C. Mo. No. 35, General Exchange Tariff, Section 55, Original

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<sup>1</sup> See Motion, paragraph 3.

<sup>2</sup> Id.

<sup>3</sup> See P.S.C. Mo. No. 24, Local Exchange Tariff, Appendix, 11th Revised Sheet 1, paragraph 4.

<sup>4</sup> See Motion, paragraph 2.

<sup>5</sup> Id. at paragraph 3.

Sheet 5. Staff's efforts to prevent SWBT from offering a generally available promotion and from competing in the local telecommunications market are, therefore, wholly improper.

5. Second, the pricing of MCA service is governed by Section 392.245(11), RSMo. 2000 which provides in pertinent part:


The maximum allowable prices for nonbasic telecommunications services of a large, incumbent local exchange telecommunications company regulated under this section shall not be changed until January 1, 1999, or on an exchange-by-exchange basis, until an alternative local exchange telecommunications company is certified and providing basic local telecommunications service in such exchange, whichever is earlier. Thereafter, the maximum prices for nonbasic telecommunications services of an incumbent local exchange telecommunications company may be annually increased by up to eight percent for each of the following twelve-month periods upon providing notice to the commission and filing tariffs establishing the rates for such services in such exchanges at such maximum allowable prices. This subsection shall not preclude an incumbent local exchange telecommunications company from proposing new telecommunications services and establishing prices for such new services. An incumbent local exchange telecommunications company may change the rates for its services, consistent with the provisions of section 392.200, but not to exceed the maximum allowable prices, by filing tariffs which shall be approved by the commission within thirty days, provided that any such rate is not in excess of the maximum allowable price established for such service under this section. (Emphasis added).

Thus, under Section 392.245(11), an ILEC like SWBT can change the rate for a service so long as it does not exceed the maximum allowable price. Here, SWBT's proposed price clearly does not exceed the maximum allowable price for MCA service. Moreover, even Staff recognizes this as true as Staff states: "[a]lthough Staff does not share this view, the Office of Public Counsel in Case No. TT-2002-447 has asserted that the price

of MCA service is unchangeable."<sup>6</sup> It is wholly improper for Staff to assert that SWBT's proposed tariff should be suspended based upon an assertion by another party, in another case, which Staff does not even support. The statute is clear; SWBT may reduce the rate for MCA service and the Commission must approve a tariff where the price is below the maximum allowable rate. It is also clear that the Commission has approved such reductions in the past. For example, see P.S.C. Mo. No. 24, Local Exchange Tariff, Original Sheet 1.0301.

Wherefore, Southwestern Bell Telephone, L.P., d/b/a Southwestern Bell Telephone Company prays this Commission denies Staff's Motion to Suspend and Reject Tariff Filing, thereby allowing SWBT's proposed tariff to become effective September 16, 2002, together with any other further and additional relief the Commission deems just and proper.

Respectfully submitted,

By: 

PAUL G. LANE	#27011
LEO J. BUB	#34326
ANTHONY K. CONROY	#35199
MIMI B. MACDONALD	#37606

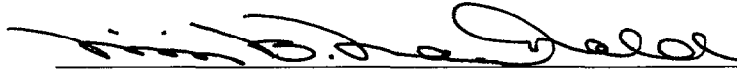
Attorneys for Southwestern Bell Telephone, L.P.  
One SBC Center, Room 3510  
St. Louis, Missouri 63101  
314-235-4094 (Telephone)  
314-247-0014 (Facsimile)  
[mimi.macdonald@sbc.com](mailto:mimi.macdonald@sbc.com)

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<sup>6</sup> Id.

**CERTIFICATE OF SERVICE**

Copies of this document were served on the following parties by e-mail on September 9, 2002.

A handwritten signature in black ink, appearing to read 'Mimi B. MacDonald', is written over a horizontal line.

Mimi B. MacDonald

DAN JOYCE  
MISSOURI PUBLIC SERVICE COMMISSION  
PO BOX 360  
JEFFERSON CITY, MO 65102

MICHAEL F. DANDINO  
OFFICE OF THE PUBLIC COUNSEL  
PO BOX 7800  
JEFFERSON CITY, MO 65102