

1 STATE OF MISSOURI  
2 PUBLIC SERVICE COMMISSION

3  
4 TRANSCRIPT OF PROCEEDINGS

5 Hearing

6  
7 March 8, 2010  
8 Jefferson City, Missouri  
9 Volume 1

10 In the Matter of a Proposed )  
11 Amendment to 4 CSR 240-33.545, )  
12 Filing Requirements for )File No. TX-2010-0159  
13 Telecommunications Company )  
14 Tariffs, )

15 MORRIS WOODRUFF, Presiding  
16 CHIEF REGULATOR LAW JUDGE

17  
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## 1 A P P E A R A N C E S

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## 1 P R O C E E D I N G S

2 JUDGE WOODRUFF: Well, let's go ahead and get  
3 started then. We're here for a public comment hearing on  
4 File No. TX-2010-0159. It's amendment of 4 CSR  
5 240-33.545, which are filing requirements for  
6 telecommunication -- telecommunication company tariffs.  
7 We'll begin by taking entries of appearance, beginning  
8 with Staff.

9 MS. DALE: My name is Colleen M. Dale, Post  
10 Office Box 360, Jefferson City, Missouri, 65102, appearing  
11 on behalf of the Staff of the Missouri Public Service  
12 Commission.

13 JUDGE WOODRUFF: For AT&T?

14 MR. GRYZMALA: Good morning, your Honor. Bob  
15 Gryzmala representing Southwestern Bell Telephone Company,  
16 doing business as AT&T Missouri, 909 Chestnut, Room 3516,  
17 St. Louis, Missouri, 63101.

18 JUDGE WOODRUFF: Okay. Any other attorneys in  
19 the room who want to enter an appearance? I don't see  
20 anybody else. For comments -- Staff and AT&T both filed  
21 written comments. I think for this hearing we'll start  
22 with AT&T. Mr. Gryzmala, I'll swear you in again.

23 ROBERT GRYZMALA,  
24 being first duly sworn to testify the truth, the whole  
25 truth, and nothing but the truth, testified as follows:

1           JUDGE WOODRUFF: Thank you. What sort of  
2 comment would you like to make in addition to what you've  
3 already filed? Or is there anything else?

4           MR. GRYZMALA: Without reciting again what we  
5 already said in our filing, I think I would spend just a  
6 moment or two, your Honor, with the reply comments --

7           JUDGE WOODRUFF: Okay.

8           MR. GRYZMALA: -- of the Staff. There is one  
9 principle highlight to this case about which Staff and  
10 AT&T Missouri have parted way. Let's start with what we  
11 know and then go to what the disagreement is.

12           What we know under 392.500 is that the timeline,  
13 if you will, for filing a tariff that would increase rates  
14 to ten days, what we know is that filing a -- or a  
15 classification or a tariff or what we would call our  
16 business -- changing the terms and conditions of the  
17 tariff, that would result in a price increase. It was  
18 also ten days. That's 392.500.

19           What we know is that filing a straightforward  
20 change in the dollars and cents price of the service to  
21 reduce it, to decrease it, is a one-day filing. And what  
22 we know is changing the classification or tariff or the  
23 terms and conditions of a tariff that would result in a  
24 price decrease, one day. So high level, ten days for  
25 increases. One day for decreases.

1           In the present environment, there is a rule of  
2 the Commission that says, If you are looking to go about  
3 changing the terms and conditions or introducing revising  
4 the terms and conditions, a 30-day tariff filing applies.

5           And it was a part of the original rule-making,  
6 your Honor, that proposed that that paragraph be stripped  
7 out. The obvious question that comes up is, okay, what  
8 are you going to replace it with?

9           In the instance where a tariff change or a  
10 change in the terms and conditions of a tariff neither  
11 results in an increase, because we already see that's ten  
12 days, or a decrease, we've already seen that's one day,  
13 what about that middle ground when you're just simply  
14 changing the terms and conditions of a tariff?

15           The terms and conditions can be a euphemism for  
16 a lot of things, quite frankly. It can be a material  
17 matter. It can be a substantive matter. In our business,  
18 in the Staff's business and in our company's business, it  
19 can be as little as a typo, kind of falls in that loop of  
20 terms and conditions, everything other than prices.

21           Well, when the rule-making was cut, there was no  
22 substitute language put in there. We offer and we put  
23 together a ten-day proposal, and that is why not use the  
24 same effective benchmark timeline as you would if you were  
25 changing terms and conditions that would kick up a rate or

1 simply increase the dollars and cents of a rate, ten days.

2           And we presented instances where that would be  
3 more reflective of the Legislative intent. We wrote that  
4 up. The point I want to make with respect to Staff's  
5 reply is they think that what we've said goes too far by  
6 allowing all of these filings to be filed on ten days  
7 rather than ten (sic) days.

8           And here are the reasons I submit for that  
9 proposition. The public interest is best served by  
10 maintaining the 30-day requirement. First reason. Some  
11 tariff filings can be difficult to evaluate. Greatly  
12 shortening the time frame for such filings will  
13 undoubtedly make it more difficult for any party to  
14 evaluate a filing to determine whether intervenor takes  
15 some sort of action.

16           We agree. That's just a matter of circumstance.  
17 When you reduce a response time from 30 days to 10 days,  
18 it will have an effect. That's no different in the  
19 instance where we've already seen timelines reduced from  
20 30 to ten.

21           Price increases or changes in terms and  
22 conditions can lead to price increases. That decision has  
23 been made. So that reason is more -- offers no more  
24 support for our -- for resisting our proposal than would  
25 for what the Legislature has already done expressly in

1 reducing timelines to ten days. Or even one. Or even  
2 one.

3           Here's the second reason. In addition, once a  
4 tariff filing becomes effective, the company no longer has  
5 the burden of proving the reasonableness of the filing.  
6 Well, that's true, too on your other filings, whether a  
7 price increase, term and condition that results in a price  
8 increase, price decrease, terms and conditions that  
9 results in a price decrease. All of those can happen on a  
10 very abbreviated time frame, certainly less than 30, down  
11 to ten, down to one.

12           So I -- I guess what my -- my singular point  
13 would be that this is the first time that the Staff has  
14 put a stake in the ground as to why it resists reducing  
15 the time frame from 30 down to ten.

16           I don't know of any instance in which the  
17 Legislature moved a time out from one to thirty, from ten  
18 to thirty. All of them were shortening. And in a couple  
19 of -- of -- and so for that reason, it would be far more  
20 consistent with Legislative intent to allow terms and  
21 conditions to become effective ten days after filing where  
22 they neither result in an increase nor result in a  
23 decrease. It would just be more reflective.

24           Now, candidly, is there specific express  
25 language in the statute we can point to? No. It's not

1 there. Staff knows it. We know it. We're arguing about  
2 Legislative intent.

3           One wrinkle, there's a statement in the Staff's  
4 reply that these two point that I made out -- that I've  
5 pointed out about evaluating tariff filings, you know,  
6 need a little more time, that sort of thing. Staff says,  
7 These are important considerations, especially since all  
8 of AT&T's service has competitive classification --  
9 and here's the punch point -- including AT&T's switched  
10 and special access services.

11           Our proposal is ten days across the board. Are  
12 there instances in which tariffs might become busier, more  
13 substantive in the access arena when those are principally  
14 consumers by, you know, fellow telecommunication companies  
15 or elsewhere? Possibly so.

16           But that certainly doesn't warrant holding up  
17 all of the terms and conditions filings across the retail  
18 business where there's nothing to do with the rates --  
19 rate increases or decreases to 30 days.

20           So the bottom line is 30 days has to come out.  
21 Staff made no bones about it. They said -- very clearly,  
22 they agreed that deleting the 30-day filing requirement,  
23 "will -- will create ambiguity and a gap in the  
24 Commission's rules."

25           Okay. They agree with that. That is a quote

1 from their brief. Having said that, the only remaining  
2 question then is, are you going to replugin in the 30 days  
3 that existed before that? Or are you going to look at  
4 what the Legislature did and glean whether or not a  
5 different intent was afoot? And that's our point. Ten  
6 days.

7 JUDGE WOODRUFF: Is there any other area where  
8 Staff and AT&T still disagree?

9 MR. GRYZMALA: I'm sorry. Yes. I think there  
10 is. In the matter of promotions --

11 JUDGE WOODRUFF: Okay.

12 MR. GRYZMALA: -- there is a statement that  
13 would be tacked on to the newly crafted language of  
14 promotions. And I -- I would cite, your Honor, to  
15 paragraph capital D, as in David.

16 We have no issue with that paragraph largely.  
17 But when you get to the last line is where the rub becomes  
18 apparent. Promotions must have an established --  
19 actually, you should probably put an, a-n, before  
20 established.

21 But in any case, Promotions must have  
22 established start and end dates and must be offered in a  
23 non-discriminatory manner. The rub is the phrase "in a  
24 non-discriminatory manner." We believe that that should  
25 be deleted.

1           Staff makes the point, Well, gee, that language  
2 has been there for a long, long time anyway. I don't  
3 disagree. I don't disagree. 1599 -- HB 1599 did not  
4 affect that. I think that language was there when the  
5 promotion statute was put into late SB 237 and 230 -- you  
6 know, in 2005.

7           But that's no reason to ignore what I think is a  
8 proper -- we think is a proper result. Must they be  
9 offered in a non-discriminatory manner? I don't think  
10 that that's the case. Don't think that that's the case.

11           But -- and I would only point out briefly the  
12 reasons that we -- that we cited in support of that  
13 proposition. If you look at language of the statute --  
14 and it's only one sentence. And, again, thinking about --  
15 we're thinking about discrimination here. Not  
16 withstanding any other provision of this section. Stop.  
17 The discrimination prohibitions in 392.200.3. And what  
18 does that language mean, not withstanding any other  
19 provision of this section? That addresses 392.200.3.

20           Let's make it even more clear. The Legislature  
21 did this. Every telecommunications company is authorized  
22 to offer discounted rates at special promotions -- and  
23 here's the key language -- on any of its  
24 telecommunications services to any existing, new and our  
25 former customers.



1 being first duly sworn to testify the truth, the whole  
2 truth, and nothing but the truth, testified as follows:

3 JUDGE WOODRUFF: Thank you very much.

4 MS. DALE: I'll begin with his -- with  
5 Mr. Gryzmala's last point first. This language in that,  
6 Promotions must be offered under tariff or prior  
7 notifications to the Commission via tariff filing is  
8 required, promotions must have established start and end  
9 dates and must be offered in a non-discriminatory manner  
10 has been in existence since the '90s.

11 Yes, it's true there has been a -- there has  
12 been a change in the statutory language. But I do not  
13 believe that they meant to -- that the Legislature meant  
14 to allow companies to discriminate in the societally  
15 accepted use of that term.

16 Yes, they can now differentiate where they could  
17 not before between existing customers, new customers. But  
18 within that class, they have to be offered on a  
19 non-discriminatory basis, we believe.

20 If that language that exists now conflicts with  
21 the statute, which we don't believe it does, then it  
22 should be altered, but not eliminated.

23 At this time, we don't have any language that  
24 can be substituted in to clarify that promotions now no  
25 longer need be offered to every customer of the telephone

1 company. It can be offered to specific classes. And I  
2 can tell you that this language back in the '90s was  
3 interpreted to mean that all customers had to be offered  
4 the promotion.

5 JUDGE WOODRUFF: And you're agreeing now that  
6 that's no longer the case?

7 MS. DALE: Yes. But we still need something  
8 that clarifies what has -- what is -- throughout the  
9 telecommunications statutes that telecommunications  
10 providers can't engage in active discrimination against  
11 certain subgroups of customers.

12 And, for example, they can't say, impoverished  
13 neighborhoods, whatever. I -- they can't choose customers  
14 on the basis of -- they can't discriminate on the basis of  
15 factors that are protected by law.

16 JUDGE WOODRUFF: Mr. Gryzmala, I assume that's  
17 not what AT&T is proposing to do?

18 MS. DALE: I know they're not.

19 MR. GRYZMALA: No, your Honor, I want to make  
20 sure the point is well understood. We're not claiming  
21 that we can, you know --

22 MS. DALE: Only offer your services to men?

23 MR. GRYZMALA: Yeah. To the extent there are  
24 applicable federal or state laws that would limit the way  
25 in which we're going about offering promotions, that's

1 another matter.

2 All of what we're submitting here is that the  
3 language that was placed -- if I'm correct, Cully, in  
4 2005, NSB 237, 392.200.12 has to be given meaning  
5 irrespective of the age-old thinking that the promotions  
6 were subject to discrimination analysis. That's all we're  
7 saying. And we're only looking to except out that --

8 JUDGE WOODRUFF: Can I ask what kind of  
9 discrimination would -- would be involved here?

10 MS. DALE: New customers.

11 MR. GRYZMALA: She may -- and I'm not a  
12 marketing -- marketing person by nature, your Honor, but I  
13 -- I don't want to ever limit the prospects of what could  
14 be creatively developed by our marketing folks. It may be  
15 that we would want to offer -- I'm just making this up.  
16 Okay?

17 Maybe we want to offer a certain promotion to  
18 the college age group of males ages 18 to 21. I'm just  
19 making it up. Maybe we want to offer a promotion to a  
20 three-block area in a Wi-fi district in the urban core and  
21 not the surrounding neighborhoods. I mean, the  
22 imagination is -- it's there. The creativity is there.

23 I'm not looking -- we're not advancing the  
24 prospect of what you heard Ms. Cully -- Ms. Dale  
25 effectively suggest red-lighting or something like that.

1 That's not the way we do business.

2 JUDGE WOODRUFF: And that would be a legal  
3 issue, as you indicated under other --

4 MR. GRYZMALA: I would look at whatever statute  
5 -- whatever state statute, federal law applies. That's  
6 what -- I don't know that it would be illegal, per se. I  
7 don't know that it would be illegal, per se.

8 I'm just not that smart in that area on  
9 discrimination or the various Federal and State laws. I  
10 know, for example, just given my experience in the video  
11 and -- and -- arena, you know, there are discrimination  
12 statutes -- or discrimination provisions in the new video  
13 law about that.

14 You know, in -- in low income and in racial  
15 arenas, the Legislature addressed those areas in the --  
16 its video log, Section 67. But I would have to go through  
17 that analysis. What else is out there?

18 In any proposal that came across my desk,  
19 marketing wants to do this, that or the other, I'd say,  
20 Let's just put aside 392.200.3. That just does not apply.  
21 That would be my legal advice to them today based on the  
22 strength of this language.

23 But what other statutes are out there that we  
24 have to pay attention to, your Honor?

25 JUDGE WOODRUFF: Okay. And these would all be

1 competitive services, I'm assuming?

2 MR. GRYZMALA: Yes. Well, wait a minute. This  
3 is promotions. I don't think it applies only -- it's the  
4 only window. It's for promotion.

5 MS. DALE: There's so little that's  
6 non-competitive at this point that's it's also --

7 MR. GRYZMALA: Yeah. All of our services are  
8 competitive. But it may be -- I don't know if the  
9 promotion statute applies to some services at some other  
10 company that are not competitive.

11 JUDGE WOODRUFF: Ms. Dale, do you have --

12 MS. DALE: Of a non-competitive nature, I -- I  
13 don't know. We haven't considered that. Do you have any  
14 anything to -- I think you'll need to be sworn.

15 MR. VAN ASHEN: The only thing I might add --

16 JUDGE WOODRUFF: Mr. Van Ashen, I need to swear  
17 you in.

18 JOHN VAN ASHEN,  
19 being first duly sworn to testify the truth, the whole  
20 truth, and nothing but the truth, testified as follows:

21 MR. VAN ASHEN: The only thing I might add is  
22 the concept that if -- if you accept what AT&T is  
23 proposing and if there is the desire to, I guess, question  
24 this or have the Commission suspend it, the way the rule  
25 is -- is being proposed promotions could be done on one

1 day's notice. And so from a practical standpoint, I'm not  
2 quite sure how that would be done.

3 JUDGE WOODRUFF: Promotions are a one-day  
4 because they're reducing rates; is that --

5 MS. DALE: Yes.

6 MR. VAN ASHEN: Well, I don't think it's real  
7 clear. Right now, it's they can either be done on seven  
8 or ten days depending on whether it's competitive service  
9 or non-competitive. We were proposing that it just be one  
10 day. But --

11 MR. GRYZMALA: Because it looks largely and  
12 smells largely like a price decrease.

13 MR. VAN ASHEN: Generally. Although it  
14 sometimes can be a little bit more difficult to determine.  
15 But I think the practicality of getting this before the  
16 Commission to raise a question about a questionable  
17 promotion, it's not going to happen under -- under these  
18 rules.

19 A company could make a filing late in the day,  
20 and it could -- it will go into effect, and it's basically  
21 over and done with. There's no ability to say, Wait a  
22 minute, and -- and file a motion to suspend with the  
23 Commission. That's my only comment about that.

24 MR. GRYZMALA: And the only remaining point I  
25 would -- just in reply to that -- is I understand the

1 point. One day is a short time from anybody's  
2 perspective. But the Legislature has already made one-day  
3 cuts elsewhere. The law provides in the arena of  
4 packages, your Honor, we are authorized by law to make any  
5 change to an existing package on a one-day filing. So  
6 it's already where we are.

7 JUDGE WOODRUFF: Okay. Anything else Staff or  
8 AT&T wants to add?

9 MR. GRYZMALA: Not on that point.

10 MS. DALE: On that point, no.

11 JUDGE WOODRUFF: Okay. Other points?

12 MS. DALE: I would like to point out that the  
13 language in 392.500, for example, in subsection 1 says,  
14 Any proposed decrease in rates or charges or proposed  
15 change in any classification or tariff resulting in a  
16 decrease in rates or charges."

17 It does not say a change in the terms or  
18 conditions resulting in a rate change. One of the things  
19 that we are grappling with in this case, as Mr. Gryzmala  
20 has already hinted at, is that the Staff and -- pursuant  
21 to the rules has always had 30 days to look at changes in  
22 terms and conditions.

23 We understand that that's very broad and that  
24 typos, as well as wholesale rewrite of tariffs, additions  
25 of limitations of liability that can have significant

1 effect on customers, all those kinds of things fall within  
2 the broad rudibrick of terms and conditions.

3           The Staff agrees that there should be some less  
4 time devoted to those minor changes that do not affect  
5 customers' substantive rights. At this point, the bright  
6 line that we have is that when numbers change, the terms  
7 -- or the time limits that the Legislature has established  
8 now, the one day, the ten day apply.

9           When words change, it's 30 days. Now, I'm  
10 willing to concede that this does say or proposed change  
11 in any classification or tariff resulting in a decrease.  
12 But I'm not willing to go so far as to say that any term  
13 or condition can be made on a ten or a one-day basis.

14           The Staff is perfectly willing to work with the  
15 companies to devise some other language that would allow  
16 for an abbreviated review time for certain changes. But  
17 at this point, we have not been able to come up with any  
18 bright line division between those terms and conditions or  
19 text changes that really don't need to be reviewed.

20           They're -- they're fixing a typo. Why should  
21 that take 30 days? Or they're completely rewriting their  
22 customer liability provisions and -- or changing who has  
23 to pay for what. It's -- it's those kind of changes need  
24 to have significant substantive review. And right now, we  
25 don't have a way to delineate those.

1                   JUDGE WOODRUFF: So that would probably be a  
2 future rule-making. Is that what you're --

3                   MS. DALE: We would suggest that the Commission  
4 go ahead and say in this rule-making, We know that there  
5 is a difficulty with these kinds of filings, there's a  
6 difference of opinion. Go forth, come up with something,  
7 come back. But at this point, we don't have language that  
8 we believe is appropriate. We're not on board with AT&T's  
9 language, but we agree that they have a point.

10                  JUDGE WOODRUFF: Okay. What is the practical  
11 effect right now? If AT&T -- assuming this rule was not  
12 being proposed or to be revised, when AT&T wants to file a  
13 tariff now that changes terms and conditions, does it have  
14 a 30-day effective date?

15                  MR. GRYZMALA: Well, again, I want to make sure  
16 that -- in the old regime, as it were, I think the rule of  
17 thumb, if not the rule, was 30 days. But then you had  
18 the change in 392.500 with that key language, not just  
19 increase in rates, but any change in a classification or a  
20 tariff.

21                  So our view, unless we're hearing something  
22 wrong, I thought we were together with the Staff in our  
23 interpretation of the changes in terms and conditions that  
24 result in price increases are ten days. Changes in terms  
25 and conditions, although terms and conditions is not used

1 in the statute, the rule -- rule language is never used in  
2 the statute in terms and conditions. That's one day on a  
3 price decrease. I thought we were only arguing as it were  
4 debating about that middle area in which there was  
5 neither.

6 JUDGE WOODRUFF: That's what I was asking about,  
7 too, was that --

8 MR. GRYZMALA: If not, there might be  
9 disagreement. We might disagree as to whether or not it  
10 has any effect on prices, terms and conditions. We're  
11 sort of thinking hypothetically.

12 But if there were a change in terms and  
13 conditions, there might be a disagreement as to whether or  
14 not it actually results in a price decrease or increase.

15 Now, a situation in which you're a tariff  
16 manager of my company or working with tariffs at the  
17 Staff, something comes across your desk. Characterizing  
18 it as no effect in prices or decrease has pretty  
19 significant consequences because, under Staff's proposal,  
20 if it's a price decrease, which we agree with, that would  
21 be a one-day spread.

22 But if -- if Staff thinks that, Well, we're  
23 changing terms and conditions, gee, that takes 30 days, is  
24 the price decrease to the customer going to be held up for  
25 30 days? That's not what the Legislature said.

1           If you combine terms and conditions changes for  
2 ease of filing and administration, whatever you have to  
3 say about a tariff, you put it in the tariff, change the  
4 term, change a condition, decrease the price. The  
5 consumer would expect that to be effective one day.  
6 Why would that be held up for 30 days?

7           On the flip side, the -- the company has an  
8 expectation that if a -- a price increase is submitted,  
9 they are able to take advantage of that price increase  
10 after ten days.

11           What if you put a term and condition change in  
12 there as well? You're a tariff manager and you're  
13 working. You're changing something else in there while  
14 you have the opportunity. You're on that page.

15           JUDGE WOODRUFF: Okay.

16           MR. GRYZMALA: And that -- why should that be  
17 held up for 30 days when our authority to price higher  
18 would come in ten days? That's what the Legislature said.

19           JUDGE WOODRUFF: Let me try and explore this a  
20 little bit further with Staff. If -- as I understand it  
21 now, if AT&T files a tariff that has an effective decrease  
22 in rates, it can be a one-day effective date?

23           MS. DALE: Right. I mean, that's not presently  
24 the rule, but it's the law, so --

25           JUDGE WOODRUFF: Right.

1 MR. GRYZMALA: Yeah.

2 JUDGE WOODRUFF: And this rule would make the  
3 rule.

4 MS. DALE: Consistent with the law.

5 JUDGE WOODRUFF: Consistent with the statute.  
6 What if they filed such a one-day tariff or even a ten-day  
7 tariff to increase costs and Staff looked at it and said,  
8 No, wait a minute, that should be a 30-day tariff because  
9 it affects conditions, what would Staff's remedy be? What  
10 would Staff do?

11 MS. DALE: Staff -- the first thing the Staff  
12 would do is to call the company and to say, Split these  
13 out into two tariffs, one for terms and conditions with a  
14 30-day and the other for the rate change.

15 If the company didn't do that, then we would do  
16 what we could to seek to suspend. But in light of the  
17 fact that if they claimed it was a decrease, even --

18 JUDGE WOODRUFF: With a one-day tariff, you  
19 can't do anything basically.

20 MS. DALE: There's nothing we can do.

21 JUDGE WOODRUFF: Other than file a complaint.

22 MS. DALE: I suppose that would be it. But the  
23 tariff would be then an effective tariff with a very  
24 difficult -- yeah. So as I said, we understand and have  
25 understood for some time that there are tariff text

1 changes that should go on a quicker basis.

2           There are also some text changes that may be the  
3 change in any classification or tariff resulting in a  
4 decrease in rates. But at this point, we can't draw a  
5 line between what is meant in the statutory language, what  
6 is also common sense and those -- those things that should  
7 be earlier and those wholesale changes in terms and  
8 condition that may have significant effects on customers  
9 that we believe should be 30 days.

10           We understand that there's a dichotomy there.  
11 We agree with AT&T on that. We agree that their -- their  
12 viewpoint is valid. But we don't believe that their  
13 language differentiates appropriately.

14           JUDGE WOODRUFF: Okay.

15           MS. DALE: And we don't have language either  
16 that we believe differentiates appropriately.

17           JUDGE WOODRUFF: Okay. Anything else that AT&T  
18 wants to add?

19           MR. GRYZMALA: Just one real quick point. We  
20 think we put that language on the table, your Honor. We  
21 put that language in there. We just tracked the words of  
22 the statute. Ten days. Any -- any proposes increase in  
23 rates or charges or proposed change in any classification  
24 or tariff resulting in any increase in rates or charges,  
25 ten days. We just pulled the words right out of the

1 statute. There's no rocket science here.

2 And then on the decrease, the same. Any  
3 proposed decrease in rates of charges -- rates or charges  
4 or proposed change in any classification or tariff  
5 resulting in a decrease in rates and changes, one day.  
6 Pulled it right out of the statute.

7 And then the last piece was -- was where there  
8 is neither. The Commission shall be notified -- I don't  
9 have it here. Where it is neither an increase or  
10 decrease. That's all.

11 MS. DALE: Let me give you an example. And  
12 this, of course, is just a hypothetical. But let's say  
13 that AT&T offered a half-price service for customers who  
14 only receive telecommunication services on even numbered  
15 days. Is that a decrease? Is it a tariff change that  
16 results in a decrease?

17 MR. GRYZMALA: Well, my response to that is it's  
18 a ten-day rule. We don't have to thrash and worry and  
19 wail about whether or not thirty or ten or one -- thirty  
20 or ten applies. The -- the attractiveness with a ten-day  
21 rule is, you know, you don't worry about that issue.

22 MS. DALE: No. That would be a one-day under  
23 your --

24 MR. GRYZMALA: Oh, I mean if it's a price  
25 decrease. I'm not sure which way you're going.

1 MS. DALE: I said it was half-price service for  
2 every other day service.

3 MR. GRYZMALA: How many days in the month? I  
4 mean, you can get that in the math, right? You can get on  
5 your little calculator. But that's the point. I mean --

6 MS. DALE: So in January and March --

7 MR. GRYZMALA: -- we're going to be less  
8 inclined to -- to -- you know, when you're talking about a  
9 one-day spread, that's -- that's --

10 MS. DALE: And -- and this is the sort of thing  
11 that we're -- that we're grappling with. And I don't  
12 think that fundamentally we have -- I mean, I -- they're  
13 not going to offer a 50 percent decrease for every other  
14 day service, clearly. But as Staff review the tariffs, we  
15 have to be able to look for those things.

16 JUDGE WOODRUFF: Okay.

17 MS. DALE: And that's why we've written the rule  
18 the way we have.

19 MR. GRYZMALA: Any time you walk into the  
20 unknown, there's a fear factor. I understand that. I  
21 would only point out my own experience because I and my  
22 colleagues review all the tariffs that are filed with this  
23 Commission before they're filed with this Commission.

24 And I can't remember a day in which a change to  
25 any tariff was more than a couple of pages, unless you're

1 talking about increase in rates where you're changing  
2 rates on services that appear across the board different  
3 pages. But in terms of the text, I think the experience  
4 has been it a pretty -- pretty easily confined.  
5 Page or two. You get it in an hour. You kind of can  
6 figure out what's going on. It's the not -- it's not as  
7 -- it doesn't present the administrative difficulties I  
8 think might be suggested here.

9 MS. DALE: Let me just point out that there are  
10 hundreds of companies.

11 JUDGE WOODRUFF: Okay. Anything else either the  
12 Staff or AT&T wants to add?

13 MS. DALE: I -- I would like to mention that  
14 Staff erroneously removed paragraph 18, and we have noted  
15 in our comments that we would like to see that reinstated.

16 JUDGE WOODRUFF: Okay.

17 MR. GRYZMALA: That is what creates the tension,  
18 your Honor, because once that 30-day paragraph was omitted  
19 and our comments were appreciated, Staff moved to --  
20 sought to re-institute the 30 effectively is what it was.  
21 Anyway, I have nothing further.

22 JUDGE WOODRUFF: All right. Anyone else in the  
23 room want to make any comments? Okay. I don't hear  
24 anything else. So with that, we are adjourned. Thank  
25 you.

1 MS. DALE: Thank you.

2 (The proceedings were concluded at 10:37 a.m. on  
3 March 8, 2010.)

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