

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

In the matter of the tariff filing of AT&T )  
of the Southwest, Inc. concerning revision )  
in billing method for certain types of )  
prepaid calling cards. )

Case No. TO-2008-0104

**DISSENTING OPINION OF COMMISSIONER**  
**ROBERT M. CLAYTON III**

This Commissioner must dissent from the majority's premature denial of Public Counsel's Motion to Suspend Tariff associated with long distance calling cards. This Commissioner would have preferred an opportunity for more study of an in-state long distance service that has the potential to leave customers confused as to the cost of the long distance plan and the amount of service received.

This Commissioner agrees that the long distance calling card service is a competitive service requiring the least amount of regulation. The question that must be answered is not whether there is a significant difference in the actual price or cost of the service among different types of calls, but rather, is the calling card notice and description of the service sufficiently clear so that a consumer can make an educated decision regarding the product's purchase.

The calling cards referenced by AT&T in its exhibits suggest the availability of different plans and services that reflect significant differences in price for one minute of long distance calling. The chart below sets out the number of "state-to-state" calling minutes, the price for the card and the resulting price per minute of calling.

Minutes	Calling Card Price	Rate Per Minute
60	\$5.49	\$.091/min.
100	\$8.49	\$.085/min
300	\$19.49	\$.065/min

AT&T's exhibits suggest that the front of the card or the company website reads that "In-state rates may be higher." The company further suggests that additional disclaimers appear either on the back of a calling card or may appear on the company's website:

BY USING THIS PREPAID PHONE CARD YOU CONSENT TO THE TERMS, CONDITIONS, RATES & CHARGES BELOW AND IN THE SERVICE GUIDE AT [www.att.com/prepaidguide](http://www.att.com/prepaidguide); ALSO AVAILABLE FROM CUSTOMER CARE AT 1-800-361-4470. **Minute value applies to state-to-state calls only. A surcharge not to exceed 10 minutes applies to U.S. pay phone calls**, some of which compensates pay phone providers. One-minute billing increments; partial minutes used are billed as full minutes. Rates may be higher for calls to/from mobile phones. **For calls that begin and end within the same state, minutes are deducted at the following rates per minute of talk time: 1 minute:** DC, IL, IN, MA, RI, USVI; **3 minutes:** AL, AR, CA, CT, DE, GA, HI, KS, KY, LA, MD, ME, MI, MS, NE, NJ, NM, NV, NY, OH, OR, PR, SC, TN, UT, WI, WV; **5 minutes:** AK, AZ, CO, FL, IA, ID, MN, MT, NC, NH, OK, PA, TX, VA, VT, WA, WY; and **8 minutes:** MO, ND, SD. **International rates are higher than state-to-state rates, vary according to area called, and can change.** Call Customer Care for international calling information before leaving the U.S. Recharge minutes may have different rates, surcharges & terms & conditions & are not refundable. **Minutes don't expire.** Card can't be used for toll free calls, calls for paid services with premium charges or for operator-handled calls. Directory Assistance rates are higher than state-to-state rates. Service provider makes no warranties and its liability is limited per service guide. Any disputes arising from purchase or use of this Card are settled by arbitration, which doesn't apply to CA residents for disputes arising in CA. Safeguard your Card/PIN. You are responsible for loss or unauthorized use. Card may be terminated without notice if fraud is suspected. Card is not returnable/exchangeable unless defective. Direct unresolved complaints to regulatory agency in state where Card was bought. Use of Info to Go will incur additional charges. Service provided by AT&T Corp. or affiliate; by AT&T Alascom in AK. Service provided where authorized.

According to the notice, a consumer should divide the number of minutes by 8 to learn of the number of minutes of "in-state" calling. After applying the formula, the following chart sets out how rates can be computed in a manner comparable to the chart listed above.

Minutes	Actual Minutes	Calling Card Price	Rate Per Minute
60	7.5 minutes	\$5.49	\$.732/min.
100	12.5 minutes	\$8.49	\$.67/min.
300	37.5 minutes	\$19.49	\$.52/min.

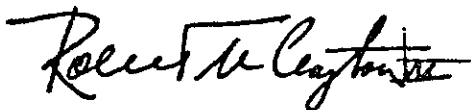
In summary, a 60 minute card actually means 7 ½ minutes of in-state calling at a rate per minute of over 73 cents per minute while a card of 100 minutes actually means 12 ½ minutes of in-state calling at a price of 67 cents per minute. Finally, a 300 minute card actually means 37 ½ minutes at a price per minute of 52 cents.

It may be true that in-state calling costs more and it is appropriate that the company charge a higher rate, although there has been no showing that the cost is eight times as high for the company. Because this is a competitive service, the company does not have to make that showing and this Commissioner is not requesting that it make such a showing. However, the question remains whether a consumer will understand the staggering difference in minutes and price after doing long division to acquire the applicable information.

At the very least, the Commission should have suspended the tariff, not necessarily reject the tariff, to learn of any customer complaints and determine whether the notice is sufficient for consumers. A consumer who is new to purchasing calling cards may not know there is even a difference in phone calls and many consumers may not have the luxury of reading all the fine print to find out that one minute of talk time will be deducted as eight minutes for intrastate calls in Missouri. In order to ensure practical notice is given to consumers, the tariff sheets should have been suspended for further investigation by the Commission.

For the foregoing reasons, this Commissioner dissents from the majority's Order Denying Motions to Suspend tariffs.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Robert M. Clayton III", written over a horizontal line.

Robert M. Clayton III  
Commissioner

Dated at Jefferson City, Missouri,  
on this 21<sup>st</sup> day of November, 2007.