

SEP 27 2002

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

Missouri Public
Service Commission

In Re the Application of Affinity Network,) Case No. _____
Incorporated tariff filing designated) Tariff No. JX-2003-0378
Missouri Tariff No. 3.)

**MOTION TO REJECT TARIFF OR, IN THE ALTERNATIVE, MOTION TO
SUSPEND TARIFF FOR A PERIOD OF AT LEAST 60 DAYS**

COMES NOW, the Office of the Public Counsel (Public Counsel), and respectfully moves the Missouri Public Service Commission to reject the tariffs filed by Affinity Network, Incorporated (the Company) under the above tariff number on or about September 20, 2002. The proposed tariff was filed by a company with a history of violating Missouri statutes regarding customer billing. See, In the Matter of Tariff Sheets of NOS Communications, Inc., et al. Designed to Calculate a new Method for Calculation of Customer Charges, 4 Mo. PSC 3d 285, 292 (1996). Further, this Company and its affiliated companies, including NOS Communications, Inc., and Affinity Networks, have been accused of misleading the public about rates in several jurisdictions. It appears that this tariff will improperly allow the Company to charge different prices to their customers for toll service. In support of this motion, Public Counsel states the following:

1. The proposed tariff was filed on September 20, 2002, and will have an effective date of October 1, 2002, unless it is rejected or suspended.

2. The proposed tariff will raise rates for some customers effective October 1, 2002, if the tariff is not suspended. However, it is not clear whether the rate will apply only to usage on or after the effective date of the tariff, or whether the Company will attempt to retroactively increase rates for the entire

"invoice period." Further it is not clear whether an entire class of customers will be affected by the plan, or only subsets of the qualified customer base.

3. The proposed tariff does not seek to grandfather customers currently enrolled in term or guaranteed rate plans. The Company's prior rate plan was not a promotion. It is unclear whether the company will attempt to price discriminate between current customers and new customers on a going forward basis by having both plans in effect. The Notice which the Company has provided to its customers, which is attached to this motion, fails to adequately inform customers of the pending rate change, and is presented in a confusing, misleading format.

4. The "Notification" begins with a paragraph which begins with the question "**Adding Lines?**" in bold letters. This is the only bold lettered phrase in the text of the message. The first paragraph consists of promotional material, and has nothing to do with the rate change. The second paragraph begins with the phrase "Adjustment to Rate Categories" but this phrase is not in bold letters. The remainder of the second paragraph contains confusing language that is related to the proposed rate increase, but does not clearly state the terms of the increase.

5. Even with competitive services, the Commission has a duty to ensure that the consumer is protected. At a minimum, a tariff should advise the consumer of the price, terms and conditions of the telecommunications service so the consumer can make an informed choice. Section 392.185 (6); Section 392.200, RSMo, In re Competitive Local Exchange Telecommunication Companies, Case No. TO-99- 596, (June 13, 2000). The language of the tariff

and the customer notice provided under Section 392.500 is vague, inadequate, and does not reasonably inform the customer how the charges will be assessed in that it fails to justify any reason for treating longer term customers differently than new customers, and fails to explain how the customer will be affected by the new pricing scheme. The Commission should reject the tariff as vague, unjust and unreasonable because it does not provide adequate protection to the consumer.

6. Although Section 392.500, RSMo (2000) provides a procedure for changing rates for competitive services, those provisions do not supercede the duty of the Commission to supervise telephone carriers (Section 386.320.1; Section 386.250 (2) and (7)) and ensure that consumers are only charged just and reasonable rates. Customers must be protected even in a competitive regulatory environment through the enforcement of state and federal laws. The Commission should reject the tariff to protect ratepayers from this unjust and unreasonable surcharge and to enforce Section 392.185 RSMo.

Section 392.200.5 RSMo requires that all telecommunications providers in Missouri may charge a different price per minute or other unit of measurement without meeting is burden of proving "that such charges are in the public interest and consistent with the provisions and purposes of this chapter."

Section 392.200.5 RSMo does not prohibit different rates for customers based upon volume of service, but it does require that any "discounts are nondiscriminatory and offered under the same rates, terms and conditions throughout a telecommunications company's" service area. Public Counsel

submits that approving the tariffs as submitted is not in the public interest of the Company's current and potential Missouri customers.

In the alternative, Public Counsel respectfully moves that the tariff be suspended for a period of at least 60 days, to provide ample time for parties to conduct discovery, resolve discovery issues, and present a recommendation to this Commission concerning whether or not the proposed tariff changes are in the public interest.

WHEREFORE, Public Counsel respectfully requests that the Commission either reject the proposed tariff, or suspend the tariff for a period of at least 60 days.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

By: 


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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed or hand-delivered to the following this 27th day of September 2002:

General Counsel
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102

William P. Wright
Executive Director
Corporate and Regulatory Affairs
Affinity Network, Incorporated
3660 Wilshire Boulevard, 4th Floor
Los Angeles, CA 90010





FILE COPY

September 19, 2002

VIA OVERNIGHT DELIVERY

The Honorable Dale Hardy Roberts
Secretary of Commission
Missouri Public Service Commission
200 Madison Street
P.O. Box 360
Jefferson City, Missouri 65102-0360

Re: Affinity Network, Incorporated
Tariff Revisions

Dear Secretary Roberts:

Enclosed for filing on behalf of Affinity Network, Incorporated ("ANI"), we hereby submit an original and fourteen (14) copies of tariff revisions for ANI's Missouri Tariff No. 3. This material consists of tariff pages as indicated on the following check sheets:

ANI's Missouri Tariff No. 3 -- Original Sheet No. A; and
Original Sheet No. B.

This revision introduces Check Sheets, and provides for a one-time rate increase, effective October 1, 2002, for those customers who initiated service on or before June 30, 2002, and who have not experienced a rate category change during the previous three consecutive invoices.

An additional copy of this letter and filing also is enclosed. Please date stamp the extra copy and return it in the enclosed prepaid envelope. Should there be any questions with respect to this matter, please contact me at 1-702-547-8432.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "William P. Wright". The signature is fluid and cursive, written over a horizontal line.

William P. Wright
Executive Director, Corporate and Regulatory Affairs

cc: Office of Public Counsel

SEP 20 2002

CHECK SHEET

Pages 1 through 92 inclusive of this tariff are effective as of the date shown at the bottom of the respective page(s).

<u>SHEET</u>	<u>REVISION</u>	<u>SHEET</u>	<u>REVISION</u>	<u>SHEET</u>	<u>REVISION</u>
Title	Original	29.5	Original	50	Third Revised*
A	Original*	29.6	Original	50.1	Original
B	Original*	29.7	First Revised	50.2	Original
1	Original	29.8	Original	50.3	Original
2	First Revised	29.9	First Revised	50.4	Original
3	Original	29.10	Original	50.5	Original
4	Original	29.11	First Revised	50.6	Original
5	First Revised	29.12	Original	51	Original
6	First Revised	29.13	Original	52	Original
7	Original	29.14	Original	53	Original
8	Original	29.15	Original	54	Original
9	Original	29.16	Original	55	First Revised
10	Original	29.17	First Revised	56	First Revised
11	Original	29.18	Original	57	First Revised
12	First Revised	30	Second Revised	57.1	Original
13	Original	31	Second Revised	57.2	Original
14	Original	32	Second Revised	57.3	Original
15	Original	33	Second Revised	57.4	Original
16	Original	33.1	First Revised	57.5	First Revised
17	First Revised	34	Second Revised	57.6	Original
18	First Revised	35	Second Revised	57.7	First Revised
19	Original	36	Second Revised	57.8	Original
20	Original	37	Second Revised	57.9	First Revised
21	Original	38	Second Revised	57.10	Original
22	First Revised	39	Second Revised	57.11	Original
23	Original	40	Second Revised	57.12	Original
24	Original	41	Second Revised	57.13	Original
25	Third Revised*	41.1	Original	57.14	Original
26	Second Revised	41.2	Original	57.15	Original
27	Second Revised	42	Original	58	First Revised
27.1	Original	43	Original	59	Original
28	First Revised	44	First Revised		
29	First Revised	45	Second Revised		
29.1	Original	46	First Revised		
29.2	Original	47	First Revised		
29.3	Original	48	First Revised		
29.4	Original	49	First Revised		

* Denotes sheets included with this filing.

DATE OF ISSUE: September 20, 2002

DATE EFFECTIVE: October 1, 2002

ISSUED BY: Tariff Administrator
3660 Wilshire Blvd., 4th Floor
Los Angeles, California 90010

CHECK SHEET

Pages 1 through 92 inclusive of this tariff are effective as of the date shown at the bottom of the respective page(s).

<u>SHEET</u>	<u>REVISION</u>
60	Original
61	Second Revised
62	First Revised
63	Third Revised*
64	Second Revised
65	Original
66	Original
67	Original
68	First Revised
69	Original
70	Original
71	Original
72	First Revised
73	First Revised
74	Original
75	Original
76	Original
77	Original
78	First Revised
79	Original
80	Original
81	First Revised
82	Original
83	First Revised
84	Original
85	First Revised
86	Original
87	Original
88	Original
89	Original
90	Original
91	Original
92	Original

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SECTION 4 - RATES (Cont'd)

4.2 Freedom Plan For Business Users Service

Carrier offers services under this tariff based on the Rate Plans and categories as specified following. All calls under this plan are subject to an eighteen (18) second minimum and billed in six (6) second increments. Rates are graduated as shown in Table 1 following:

Table 1

Rate Plan	Rate Category
Classic Q/Classic 2	IV
Classic 1	III
Universal/Prime 2/Prime 1/Super 1	II
Super 2	I

- 4.2.1 Any Rate Category I customers in service on or before June 30, 2002, whose services are not part of an unexpired term plan or usage rate guarantee, and which have not experienced a rate category change during the previous three consecutive invoices, shall have their rates adjusted upward by three Rate Categories, effective October 1, 2002. (C/T)
- 4.2.2 Any Rate Category II-III customers in service on or before June 30, 2002, whose services are not part of an unexpired term plan or usage rate guarantee, and which have not experienced a rate category change during the previous three consecutive invoices, shall have their rates adjusted to Rate Category IV, effective October 1, 2002. (C/T)

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 Los Angeles, California 90010

SECTION 9 - HorizonOne Communications Plan (Cont'd)

9.4 HorizonOne Communications Plan - Rate Table

Carrier offers services under this Section 9 based on the Rate Plans and categories as specified following. Rates are graduated as shown in Table 1 following, higher to lower, that is, Rate Category I for the Super 2 Rate Plan contains Carrier's lowest offered rates and Rate Category IV for the Classic Q/Classic 2 Rate Plan contains Carrier's top rates.

Table 1

Rate Plan	Rate Category
Classic Q/Classic 2	IV
Classic 1	III
Universal/Prime 2/Prime 1/Super 1	II
Super 2	I

9.4.1 Any Rate Category I customers in service on or before June 30, 2002, whose services are not part of an unexpired term plan or usage rate guarantee, and which have not experienced a rate category change during the previous three consecutive invoices, shall have their rates adjusted upward by three Rate Categories, effective October 1, 2002. (C/T)

9.4.2 Any Rate Category II-III customers in service on or before June 30, 2002, whose services are not part of an unexpired term plan or usage rate guarantee, and which have not experienced a rate category change during the previous three consecutive invoices, shall have their rates adjusted to Rate Category IV, effective October 1, 2002. (C/T)

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SECTION 10 - QUANTUMLINK COMMUNICATIONS (Cont'd)

10.2 QuantumLink Communications Service - Rate Plans (Cont'd)

10.2.3 Rate Table. Rate categories as set out in Section 10.2 are:

Rate Plan	Rate Category
QLC IV	IV
QLC III	III
QLC II	II
QLC I	I

10.2.3.1 Any Rate Category I customers in service on or before June 30, 2002, whose services are not part of an unexpired term plan or usage rate guarantee, and which have not experienced a rate category change during the previous three consecutive invoices, shall have their rates adjusted upward by three Rate Categories, effective October 1, 2002. (C/T)

10.2.3.2 Any Rate Category II-III customers in service on or before June 30, 2002, whose services are not part of an unexpired term plan or usage rate guarantee, and which have not experienced a rate category change during the previous three consecutive invoices, shall have their rates adjusted to Rate Category IV, effective October 1, 2002. (C/T)

10.2.4 Standard 1+ and Toll Free Access Rates

Company provides its 1+ and toll-free access service to customers not meeting eligibility requirements contained in Sections 10.2 preceding at the following rates with no minimum revenue commitment:

<u>Minimum Call Duration*</u>	<u>Per Minute Charge*</u>
0.0051	0.17

* Min. Call Duration @18 Seconds

NOTIFICATION

Adding Lines? Please contact our Customer Care Representatives if you are planning to add or move your existing lines! Not only will we be happy to assist you, we will ensure that you continue to receive the correct rate plan. Failure to initiate these additions first with us may result in account errors and higher rates – so help us to help you by giving us a call!

Adjustment to Rate Categories – Customers who initiated service on or before June 30, 2002, whose services are not part of an unexpired term plan or usage rate guarantee, shall have their rates adjusted upward by three cents for Interstate calls, three rate categories for Intrastate calls, and three rate categories for International calls, effective October 1, 2002, in any category in which a customer has not experienced a rate category change during the previous three consecutive invoices. However, customers who have elected any Most Favored Nation rates will have those rates removed, and only experience a two category adjustment in their International rate categories.

If you have any questions concerning any of these charges, please contact our Customer Care Department at the toll-free number shown on the first page of your invoice.

***WE APPRECIATE THE OPPORTUNITY TO SERVE YOU,
OUR VALUED CUSTOMER!!***

2002-0012C

NOTIFICATION

Adding Lines? Please contact our Customer Care Representatives if you are planning to add or move your existing lines! Not only will we be happy to assist you, we will ensure that you continue to receive the correct rate plan. Failure to initiate these additions first with us may result in account errors and higher rates – so help us to help you by giving us a call!

Adjustment to Rate Categories – Customers who initiated service on or before June 30, 2002, whose services are not part of an unexpired term plan or usage rate guarantee, shall have their rates adjusted upward by three cents for Interstate calls, three rate categories for Intrastate calls, and three rate categories for International calls, effective October 1, 2002, in any category in which a customer has not experienced a rate category change during the previous three consecutive invoices. However, customers who have elected any Most Favored Nation rates will have those rates removed, and only experience a two category adjustment in their International rate categories.

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