Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
Madison River Telephone Company	)	Transmittal No. 4

PETITION OF AT&T CORP.

Pursuant to Section 1.773 of the Commission's rules, 47 C.F.R. § 1.773, AT&T Corp. ("AT&T") submits this petition requesting the Commission to suspend for one day and investigate Madison River Telephone Company ("MRTC") Transmittal No. 4, filed April 16, 2002.[1] MRTC proposes to add Coastal Utilities, Inc. ("Coastal") to its Tariff F.C.C. No. 1. Currently, the MRTC tariff includes rates, terms and conditions for Gallatin River Communications, LLC ("Gallatin") and Gulf Telephone Company ("Gulf"), with separate rates filed for each of these two carriers. Coastal, currently an issuing carrier in the John Staurulakis, Inc. ("JSI") Tariff F.C.C. No. 1, will simultaneously withdraw from the JSI tariff as it becomes an issuing carrier in the MRTC tariff. This filing will also aggregate the rates, terms and conditions for the three companies (Coastal, Gallatin and Gulf) into one combined tariff.[2]

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1 Suspension and investigation are appropriate where a tariff raises substantial issues of lawfulness. *See AT&T (Transmittal No. 148),* Memorandum Opinion and Order, 56 RR2d 1503 (1984); *ITT (Transmittal No. 2191),* 73 F.C.C.2d 709, 716, n.5 (1979) *(citing AT&T (Wide Area Telecommunications Service),* 46 F.C.C.2d 81, 86 (1974).

2 *See* MRTC, Transmittal No. 4, filed April 16, 2002, Description and Justification, p. 2 of 6 and p. 3 of 6.

Certain aspects of MRTC's filing raise significant questions of lawfulness which, at a minimum, warrant suspension and investigation of its access tariff. Contrary to the requirements of the Commission's *Separations Freeze Order*, MRTC based its costs for the prospective period on frozen 2001 traffic factors despite the fact that Commission had ordered "the base year of the freeze shall be calendar year 2000, and not the twelve-month period immediately preceding the release of this Report and Order."[3] In addition, the prospective aggregated demand developed for the MRTC companies appears to be understated resulting in an inflated local switching rate. MRTC has provided no supporting justification for the near doubling of its special access revenue requirement even though its projected special access demand growth is approximately 7%.[4] Furthermore, MRTC provides no explanation for the significant increase to its Executive and Planning expenses of more than $4 million.

I. MRTC BASED IT PROSPECTIVE RATES ON FROZEN 2001 TRAFFIC FACTORS IN VIOLATION OF COMMISSION RULES.

In the *Separations Freeze Order,* the Commission froze, on an interim basis, the Part 36 jurisdictional separations rules, in order to stabilize and simplify the separations process while it continued to work on comprehensive separations reform. The Commission determined that, for all carriers, the Part 36 freeze should be based on

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[3] *In the Matter of Jurisdictional Separations and Referral to the Federal-State Joint Board*, CC Docket No. 80-286, Report and Order, FCC 01-162 released May 22, 2001, ¶ 27 ("*Separations Freeze Order*").

[4] *See* MRTC, Transmittal No. 4, filed April 16, 2002, Description and Justification, p. 4 of 6.

calendar year 2000.[5] In direct violation of the Commission's ruling, MRTC developed its prospective rates on cost studies based on 2001 traffic factors.[6]

Because MRTC failed to provide cost studies based on 2000 factors, AT&T cannot assess the full impact of this violation. However, AT&T was able to determine that the COE Category 3 DEM Factor used to apportion the Local Switching costs appear overstated when compared to historical DEM data filed with the FCC.[7] The aggregated company DEM factor used by MRTC in support of its prospective rates is .34727; however, for 1999 the aggregated company DEM was .30634. *See* Exhibit 1. In light of recent industry trends, DEM has been declining, not increasing to the extent shown by MRTC in the development of its current access charges. *See* Exhibit 2. In addition, MRTC must provide separate cost studies for each of its three study areas in addition to its filed aggregated company study, so that proper verification of their respective traffic factors can be made. Regardless, MRTC must comply with the *Separations Freeze Order* and re-submit its tariff based on the appropriate 2000 traffic separation factors as directed by the Commission's Order.

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5 *Separations Freeze Order*, ¶¶ 25-27

6 *Id*., p. 3 of 6.

7 *See* Exhibit 1.

II. MRTC HAS INAPPROPRIATELY FORECASTED ITS TRAFFIC SENSITIVE DEMAND BASED ON THE FIRST QUARTER 2002.

The *TRP Orders* have required that at least 4 years of historical demand data be provided if available.[8] Yet, MRTC based its prospective demand forecast on a comparison of the first three months of 2002 with the same period in 2001 producing a demand decline of 2.16%.[9] MRTC has created a conservative prospective demand forecast based on an insufficient number of data points.

MRTC submitted a June 16, 2000 annual tariff filing for Gulf that provided historical demand data for *three* years going back to 1997.[10] In the June 18, 2001 annual filing made by JSI for Coastal, twelve quarters of historical data were provided in addition to the most recent historical year, providing the industry with *four* years of historical reference.[11] While Gallatin River did not come into existence until November 1998, MRTC should have been able to provide the industry with the required historical demand for Coastal and Gulf separately. Gallatin, at a minimum, should have been able to provide demand data for *three* years: 1999, 2000 and 2001.

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8 *Material to be Filed in Support of 2001 Annual Access Tariff Filings*, Tariff Review Plan, DA 01-1105, released April 30, 2001, ("*TRP Order*"), Appendix C. The *TRP Order* (¶ 29) provides that "if the tariff rates are based on data from a number of study areas or operating companies, levels of aggregation associated with each study area (state) and operating company should be provided by carriers." It further states that carriers "should demonstrate good cause for reporting different or lower level of detail than specified." *Id.* ¶ 31. MRTC failed to comply with these requirements.

9 *Id*.

10 *See* Gulf Telephone Company, Transmittal No. 1, filed June 16, 2000, TRP DMD-1.

11 *See* John Staurulakis, Inc., Transmittal No. 56, filed June 18, 2001, TRP DMD-1.

Instead, MRTC has provided less than two years of historical data, and based its forecast on a single quarter.[12] Clearly, a greater number of data points will be needed to perform a reasonable forecast for the prospective tariff period.

In addition, AT&T is puzzled by MRTC's statement that local switching MOUs are the same as the billable units for the interconnection charge[13]as this charge has been eliminated in the tariff. The local switching MOUs should be those minutes measured and billed at the switch.

III. MRTC HAS PROVIDED NO JUSTIFICATION FOR THE SIGNIFICANT INCREASE TO ITS SPECIAL ACCESS REVENUE REQUIREMENT.

MRTC has increased its special access revenue requirement by over $5 million in the prospective period without reasonable explanation.[14] This increase is out of line with the fact that, consistent with the growth of special access demand in previous periods, MRTC expects that its average special access demand increase during the tariff period would remain at 7%.[15] The growth in investment should correspond to the growth in demand, and an average 7% growth in special access demand does not warrant over a 90% increase in special access costs. A key factor, albeit unexplained, is that MRTC increased its COE Cat 4.11 Wideband Exchange investment that increased

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12 *See* MRTC, Transmittal No. 4, filed April 16, 2002, DMD-1 TRP.

13 *Id*.

14 *See* MRTC Transmittal No. 4, filed April 16, 2002, Part 69 Cost Studies-Jan 2001 to Dec 2001 and May 2002 to Apr 2003, Page 1, Line 47. MRTC increased its Special Access revenue requirement from $6.345 million to $11.417 million, a difference of $5.072 million.

15 *Id*., Description and Justification, p. 4 of 6.

from $.282 million to $14.575 million in the prospective period.[16] By significantly inflating its special access revenue requirement, MRTC has also caused a higher redistribution of the TIC costs to special access in relation to the other access elements including common line.

IV. WITHOUT EXPLANATION, MRTC HAS DOUBLED ITS EXECUTIVE AND PLANNING EXPENSES IN THE PROSPECTIVE PERIOD.

MRTC has inexplicably increased its Executive and Planning ("E&P") Expenses by nearly $4 million in the prospective period.[17] To increase these expenses by nearly 90% in the tariff period is unreasonable. The fact that three companies have aggregated their costs into one tariff should produce cost savings for this category as it did for General and Administrative costs. Certainly, there should be no significant E&P cost increase as MRTC claims.

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16 *Id*., Part 36 Cost Studies-Jan 2001 to Dec 2001 and May 2002 to Apr 2003, p. 2, line 27.

17 *Id*., p. 11, line 11. MRTC increased its E&P costs from $3.047 million to $7.069 million in the prospective period while its G&A costs decreased from $12.982 million to $12.629 million.

CONCLUSION

For the reasons stated above, the Commission should suspend for one day and investigate MRTC's tariff filing.

Respectfully submitted,

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April 22, 2002

CERTIFICATE OF SERVICE

I, Judy Sello, do hereby certify that on this 22nd day of April, 2002, a copy of the foregoing "Petition of AT&T Corp." was served by facsimile and U.S. first class mail, postage prepaid, on the parties named below.

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