



Rebecca B. DeCook
Senior Attorney

Room 1575
1875 Lawrence Street
Denver, CO 80202
303 298-6357

May 2, 2002

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65101

Re: Case No. TO-2002-397

Dear Judge Roberts:

Attached for filing with the Commission is the original and eight (8) copies of AT&T Communications of the Southwest, Inc.'s Joinder in IP's Motion for Protective Order and Response to Southwestern Bell's Reply in the above referenced docket.

I thank you in advance for your cooperation in bringing this to the attention of the Commission.

Very truly yours,

A handwritten signature in cursive script that reads "Rebecca B. DeCook (jr)".

Rebecca B. DeCook

Attachment

cc: All Parties of Record

**In the Matter of the Determination of Prices of)
Certain Unbundled Network Elements.) Case No. TO-2002-397
)**

AT&T Communications of the Southwest, Inc., TCG St. Louis, Inc. and TCG Kansas City, Inc. (collectively “AT&T”), by and through their undersigned counsel, hereby submit this Joinder in IP’s Motion for Protective Order and Response to Southwestern Bell Telephone Company’s (“SWBT”) Reply and state as follows:

2. AT&T supports IP's proposed revised Protective Order in this proceeding and urges the Commission to amend its standard Protective Order to incorporate the practice of allowing access to confidential information by internal experts that heretofore has been handled via "side agreements."

3. Under the standard Protective Order, a party may designate information provided as either "Proprietary" or "Highly Confidential." Information designated as "Proprietary" may be reviewed by counsel of record and internal and external personnel who have signed a non-disclosure agreement. Information designated as "Highly Confidential" may only be reviewed by counsel of record and outside consultants. Internal cost experts of the receiving company are prohibited from reviewing information designated as "Highly Confidential" by the providing company. As a result, the standard Protective Order limits parties' ability to analyze and assess any Highly Confidential information.

4. AT&T agrees with IP that the standard Protective Order should be revised in the manner recommended by IP. AT&T agrees that the standard Protective Order limits parties' ability to fully and effectively participate in Commission proceedings, imposes delays on those parties' access to confidential information, and increases the cost of litigation. Moreover, AT&T agrees that the historical "side agreement" process allows SWBT and other incumbents to discriminate amongst parties to the proceeding and affords undue discretion to companies like SWBT to determine what access to confidential information they will afford to whom and under what conditions.

5. AT&T also agrees that other parties will not be harmed by the protective order proposed by IP. Internal experts will still be held to the high standard that outside experts are held to and would be required not to divulge or misuse any confidential information that they are given access to. Access by internal experts is the norm in many standard protective orders in other regions. For example, in virtually every state in which Qwest operates, the standard protective order permits access by internal experts. In fact,

AT&T's internal cost experts have reviewed cost studies produced by SWBT and other incumbent local exchange carriers in Kansas, Oklahoma, and Texas and AT&T's internal cost experts have reviewed cost studies of SWBT in prior cases in Missouri. In no instance has any party asserted that AT&T's access to this type of information resulted in any harm to the company providing the information.

6. Adopting IP's recommended protective order will allow parties to more fully and effectively participate in these proceedings by eliminating delays in other parties gaining access to relevant information, alleviate unnecessary costs associated with burdensome disputes regarding the classification of documents between different tiers of confidentiality and with negotiating side agreements, and will allow for the development of a more complete administrative record while still affording more than adequate protection of confidential material.

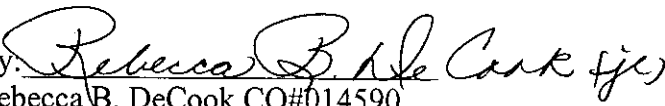
7. In its Reply, SWBT claims that the standard Protective Order is necessary to protect the legitimate business interests of the party that designates information as Highly Confidential. Instead, SWBT requests that it be permitted to continue to engage in the "side agreement" practice. The practice of entering into "side agreements" to enable other parties to access confidential information should not be condoned and cannot be sustained. The fact that SWBT has been willing to enter into these "side agreements" is an acknowledgement that other parties need access to this confidential information in order for them to effectively participate in Commission proceedings. It is also an admission that 1) access by internal experts could be standardized and 2) that the existing use restrictions in the standard Protective Order should be sufficient to protect the confidentiality of this information.

8. Forcing the receiving party to enter into side agreements with each party unduly delays access to information that is critical to the receiving party's effective participation in Commission proceedings, increases the cost of litigation for that party and affords undue discretion to companies like SWBT. As an example, in Case No. TR-2001-65, internal AT&T cost analysts have been unable to review any of the Staff's draft cost studies and results. These draft cost studies reflect Staff's estimate of the access costs of both the incumbent local exchange carriers and competitive local exchange carriers, including AT&T. However, because these draft cost studies and results have been designated by Staff as Highly Confidential, AT&T's internal experts have been unable to review and analyze these studies and results, even costs that Staff purports relate to AT&T's provision of access services in Missouri. As a result, AT&T was unable to meet deadlines for comments that have been established in that proceeding and the time available for it to conduct its review of this data has been substantially reduced. Staff attempted to negotiate with the incumbents, access to this information by other parties but was unable to work that out. AT&T has attempted to negotiate access with SWBT and has received no response. The time has passed for the use of this "side agreement" procedure. AT&T (or any party for that matter) should not be forced to suffer these delays and the costs associated with negotiating these "side agreements." The Commission should establish uniform access to confidential information, rather than allowing this ad hoc "side agreement" process to continue.

WHEREFORE, AT&T respectfully requests that the Missouri Public Service Commission grant IP's Motion for Protective Order and issue the Protective Order proposed by IP in this proceeding.

Respectfully submitted this 2nd day of May, 2002.

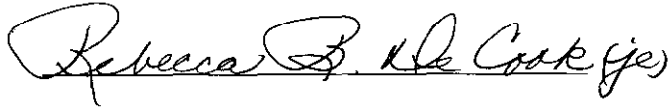
**AT&T COMMUNICATIONS OF
THE SOUTHWEST, INC., TCG ST.
LOUIS, INC. AND TCG KANSAS CITY,
INC.**

By: 
Rebecca B. DeCook CO#014590
1875 Lawrence Street, Suite 1575
Denver, CO 80202
(303) 298-6357 (303) 298-6301 (FAX)
decook@att.com

J. Steve Weber MO #20037
101 W. McCarty, Ste. 216
Jefferson City, MO 65101
(573)635-5198 (573)635-9442 (FAX)
jweber@att.com

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing in Docket TO-2002-397 was served upon the parties on the following service list on this 2nd Day of May, 2002 by either hand delivery or placing same in postage page envelope and depositing in the U.S. Mail.

 Rebecca D. Cook (jcr)

Office of the Public Counsel
PO Box 7800
Jefferson City, MO 65102

General Counsel
Missouri PSC
PO Box 360
Jefferson City, MO 65102

Paul H. Gardner
Goller, Gardner & Feather, PC
131 E. High Street
Jefferson City, MO 65101

Lisa Creighton Hendricks
Sprint
Mail Stop KSOPHN0212-2A253
6450 Sprint Parkway, Bldg. 14
Overland Park, KS 66251

Mark P. Johnson/Trina R. LeRiche
Sonnenschein Nath & Rosenthal
4520 Main Street, Ste. 1100
Kansas City, MO 64111

David J. Stueven
IP Communications
6405 Metcalf, Ste. 120
Overland Park, KS 66202

Carol Keith
NuVox Communications
16090 Swingley Ridge Rd., #500
Chesterfield, MO 63017

Carl J. Lumley
Curtis, Oetting, Heinz, Garrett & Soule
130 S. Berniston, Ste. 200
Clayton, MO 63105

Leo J. Bub
Southwestern Bell Telephone Co.
One Bell Center, Room 3520
St. Louis, MO 63101

Sondra B. Morgan
Brydon, Swearingen & England
PO Box 456
Jefferson City, MO 65102