

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

In the Matter of an Investigation of the Actual Costs)	
Incurred in Providing Exchange Access Service and)	
The Access Rates to be Charged by Competitive Local)	Case No. TR-2001-65
Exchange Telecommunications Companies in the)	
State of Missouri.)	

**RESPONSE OF SOUTHWESTERN BELL TELEPHONE, L.P.
D/B/A SBC MISSOURI TO AT&T'S APPLICATION
FOR RECONSIDERATION AND REHEARING**

COMES NOW Southwestern Bell Telephone, L.P., d/b/a SBC Missouri ("SBC Missouri"), and for its Response to AT&T Communications of the Southwest, Inc. ("AT&T") Application for Reconsideration and Rehearing ("Application for Rehearing") states as follows:

1. The Missouri Public Service Commission ("Commission") issued its Report and Order in this case on August 26, 2003. AT&T filed its Application for Reconsideration and Rehearing on September 4, 2003. In its Application for Rehearing, AT&T contends that the Commission's Report and Order violates Missouri and federal law, is arbitrary and capricious, and is not supported by the record evidence in that it failed to address the issues which AT&T believes should have been determined in this proceeding. In addition, AT&T contends that the Commission's determination to permit a cost-based variance from the cap on switched access rates applied to competitive local exchange companies ("CLECs") as a condition of competitive classification is arbitrary and capricious in that it does not permit a variance for reasons other than cost.

2. AT&T's Application for Reconsideration is not well grounded. AT&T fails to raise any new issues not previously presented to the Commission and provides no basis for a rehearing of the Report and Order.

3. AT&T's primary complaint stems from the Commission's decision not to utilize this proceeding to consider a reduction of intrastate switched access rates of incumbent local exchange telephone companies ("ILECs"). AT&T argues that the Commission erred in determining not to address that issue in its Report and Order, but AT&T ignores the Commission's express finding that this proceeding was not implemented to consider reduction in the switched access charges assessed by ILECs pursuant to tariffs previously approved by this Commission.

4. In its Report and Order, the Commission correctly noted that this case was established to determine whether the interim cap on CLEC access rates should be made permanent. As the Commission stated: "As noted previously, the Commission opened this case in order to determine whether the interim cap on CLEC access rates imposed in Case No. TO-99-596 was cost-justified." Report and Order, p. 17. With regard to all other issues which various parties, including AT&T, sought to raise in this proceeding, the Commission again correctly noted:

The Commission also sought to investigate all other issues relating to the exchange access service, and the parties responded by bringing many issues to the Commission's attention. Further proceedings with respect to those issues, if any, will occur in other cases.

Report and Order, p. 17.

5. AT&T fails to present any legal authority that would require the Commission to determine the issues which AT&T and others sought to introduce into this proceeding. Nor is there any such requirement imposed on the Commission. The Commission properly resolved the single issue for which this case was established, i.e., to determine whether the interim cap on CLEC switched access charges imposed in Case No. TO-99-596 should be made permanent. Beyond that, the Commission exercised its discretion to investigate other switched access related

issues, but determined not to resolve those issues in this proceeding. The Commission's decision was lawful and appropriate, and AT&T has wholly failed to demonstrate that the decision violated any applicable requirement.

6. AT&T's Application for Rehearing is nothing more than a restatement of its position advanced in this case that the Commission should, for various reasons, determine that ILEC switched access rates are above the relevant cost and should be reduced. AT&T raises no new issue that would justify a different resolution to the case. The Commission has appropriately resolved the issue of the cap on CLEC access charges, the purpose for which this case was established. The Commission also chose to conduct an investigation to gather information concerning ILEC switched access costs, but was under no obligation to determine those issues, much less to resolve them in the manner proposed by AT&T or to take the actions recommended by AT&T. AT&T presents no legitimate rationale that would require the Commission to reconsider its decision.


7. AT&T also seeks a rehearing with regard to the decision to impose a permanent cap on CLEC switched access charges at the level of the ILEC with whom the CLEC is competing, subject to the ability of the CLEC to seek a variance on the basis that higher access rates are cost-justified. Again, AT&T presents no new information or rationale which would require the Commission to grant the rehearing request. The Commission's rationale is fully supported by the evidence in this proceeding. As the Commission noted, the various cost studies introduced into evidence showed the cap to be high in comparison to cost. Report and Order, p. 20. Moreover, no CLEC presented any evidence with regard to its costs and the Commission noted the lack of active participation by Missouri CLECs demonstrated general satisfaction with

the current cap. Id. The evidence fully supports the Commission's determination and AT&T has not presented any rationale sufficient to require a different resolution.

WHEREFORE, for all the foregoing reasons, SBC Missouri respectfully requests the Commission to deny AT&T's Application for Rehearing and for such other and further relief as is just and proper.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned certifies that a copy of this document was served on all counsel of record by electronic mail or by first class, postage prepaid U. S. Mail on September 15, 2003. Notice of this filing was provided to all parties not represented by counsel, by first class, postage prepaid U. S. Mail.


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