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May 23, 2002

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

Re: Case No. TR-2001-65

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, TCG St. Louis, Inc., and TCG Kansas City, Inc.'s Reply to Southwestern Bell's Response in Opposition to AT&T's Motion Requesting the Adoption of a Modified Protective Order.

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".

Rebecca B. DeCook

Attachment

cc: All Parties of Record

**BEFORE THE MISSOURI PUBLIC SERVICE COMMISSION**

|   |   |                     |
|---|---|---------------------|
| 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                                     | ) |                     |

**REPLY OF AT&T COMMUNICATIONS OF THE SOUTHWEST, INC.,  
TCG ST. LOUIS, INC., AND TCG KANSAS CITY, INC. TO SOUTHWESTERN  
BELL'S RESPONSE IN OPPOSITION TO AT&T'S MOTION REQUESTING  
THE ADOPTION OF A MODIFIED PROTECTIVE ORDER**

COMES NOW, AT&T Communications of the Southwest, Inc., TCG St. Louis, Inc. and TCG Kansas City, Inc. (collectively named "AT&T" or the "AT&T Companies") and submits its Reply in to the Response in Opposition of Southwestern Bell Telephone Company ("SWBT") to AT&T's Motion Requesting the Adoption of a Modified Protective Order and states as follows:

1. In its Response, SWBT seems to posit the argument that the old ways are the best ways. Certainly, in this case, that is not true. The old protective order has simply worked as a bar to AT&T and other parties gaining access to cost studies that purport to assess their own cost of access as well as the costs that relate to the charges they will impose on one another. Thus, the fact that the standard Protective Order has been in place for some time does not mean that it remains the best solution. In fact, at one time, the Texas PUC had a protective order similar to what is referred to as the standard Missouri protective order. However, the Texas PUC realized that times do change and that parties to proceedings need access to the underlying data. SWBT has failed to identify any harm that come from allowing AT&T to have access to similar data

in other SWBT states that would justify barring AT&T from having similar access in Missouri.

2. The legacy protective order has not been an effective way of balancing the interests of the parties in this case. In fact, this case highlights the unwieldy nature of the current Protective Order. AT&T's employees are unable to see the results or the underlying modeling of the cost that Staff presumably will recommend be adopted by the Commission relating to AT&T's provision of access services in Missouri. In addition, AT&T employees cannot see the results and the underlying cost modeling associated with Staff's assessment of SWBT and the other access service providers in Missouri. As the Commission is well aware, AT&T purchases vast amounts of access services in Missouri and, therefore, has a vested interest in assessing the validity of the cost models, including all factors and inputs used in the models, that are used to calculate the cost of access service, as well as the results generated by the models. The current Protective Order effectively bars such access by AT&T, depriving AT&T of the ability to fully and equally participate in this proceeding. The only way for AT&T to fully participate in this proceeding, at least theoretically, would be for AT&T to enter into a side agreement with every incumbent local exchange company in the state of Missouri. Assuming that each company would agree to allow such access by AT&T's employees, which is not guaranteed, the process of negotiation is daunting in and of itself.<sup>1</sup> The time and cost associated with such process renders the process proposed by SWBT completely unworkable.

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<sup>1</sup> In their response, the Small Telephone Companies Group suggests that they would allow 1 AT&T employee from AT&T to review their confidential information. They provide no rationale for this limitation and, as a practical matter, there is no rationale for such a limitation. In any event, their proposal is clearly insufficient. AT&T has multiple internal experts that it intends to review and potentially file

3. SWBT objects to a single level protective order. However, that is, in fact, what the Missouri Protective Order has become. SWBT designates virtually every confidential document as "highly confidential," thus negating the existence of the other tier altogether. AT&T is unaware of any document provided by SWBT, or any other LEC, for that matter in this case that has been classified as "Proprietary."

4. In addition, SWBT's claim that AT&T has had the exact same access to SWBT's highly confidential cost information that SWBT has had to the costing information which has been designated highly confidential by other parties participating in the proceeding is untrue. AT&T and SWBT are not on equal footing. Not only does SWBT have access to its own cost studies, it also has access to AT&T's cost results, as well as the cost results of other CLECs, because Staff's consultant relied upon data or models provided by SWBT to produce their results. Thus, ironically, SWBT can access AT&T cost results, but AT&T cannot see its own results and the models relied upon to develop those results or the results Staff has developed for SWBT. Clearly, SWBT's argument fails.

5. SWBT also argues that this protective order is particularly necessary in this case because the case involves sensitive company-specific cost information. It is hard to understand why SWBT requires the two tier protective order in Missouri, when none of the other SWBT states have a similar protective order. There is nothing unique about SWBT's cost information in Missouri. AT&T employees have reviewed this same cost information in every other SWBT state under the type of protective provisions that AT&T proposed in its Motion and SWBT has never claimed any impropriety by any

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testimony in this proceeding. Access by 1 employee would significantly constrain AT&T's ability to participate in the case.

AT&T employee. Clearly the terms of the protective order proposed by AT&T are sufficient to protect SWBT's interest, while at the same time balancing the interests of other parties and affording the other parties the opportunity to more fully and fairly participate in the proceeding.

6. SWBT also questions why AT&T waited until now to raise this issue. The answer is that this issue just became a problem within the last few months. When the parties met late last year, Staff's consultant proposed to use the FCC's Synthesis Model to estimate access rates. That model and its inputs are open to the public; which was one of the stated reasons for favoring that model. Because AT&T expected to be able to review that information, AT&T was not concerned with the protective order limitations at that time. However, several of the ILECs in this proceeding opposed the use of the FCC's Synthesis Model and convinced Staff to use their own cost models. AT&T was unaware of this until Staff was preparing the draft results using the ILEC cost models. Even at that time, Staff indicated the data would be public information and that all parties would have access to the results and underlying data. It was not until Staff was ready to release the draft exchange access cost studies that AT&T became aware that in-house cost experts would not be able to review the cost data of other local exchange carriers. It was not until AT&T had actually received the draft studies that AT&T realized its in-house cost experts could not even review data purported to represent AT&T's costs.

7. AT&T promptly raised their concern with Staff and was told that Staff was working with the ILECs who provided cost models or cost data to try to obtain access for all parties to the underlying cost information. After it became apparent those discussions were not going to be fruitful, AT&T began to contact several of the parties to

this proceeding. In these discussions, it became clear that the various ILECs wanted to enter into separate and, in some cases, potentially different types of agreements and that a single side agreement addressing access to all parties' information was unlikely. It was at that time that AT&T decided to file its request with the Commission. AT&T's efforts clearly show that the process of attempting to negotiate side arrangements in a case with this many parties is completely unwieldy.

8. As a result, to date, AT&T has not been able to review the Staff's draft cost studies and results. It has been unable to file comments on Staff's draft cost studies. It has been unable to analyze those studies to determine whether it needs to file its own cost studies in this proceeding – an analysis that most other parties have been able to conduct as is evidenced by numerous ILEC filings indicating that they intend to rely on their own cost studies. Staff's final draft results are expected to be provided on June 1. AT&T is expected to provide direct testimony on July 1, 2002 and yet, AT&T internal cost experts do not even have access to cost results and inputs purported to be those of AT&T. Absent a very quick resolution of this issue, AT&T will be unable to fully participate in this proceeding under the current schedule. Accordingly, AT&T urges the Commission to quickly address this matter or to suspend the procedural schedule until this matter is resolved.

9. For the reasons stated herein, AT&T requests the Commission replace the current protective order with the protective order attached to AT&T's Motion.<sup>2</sup>

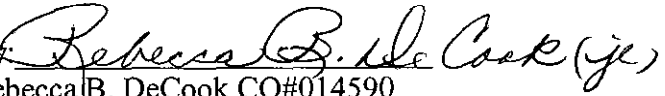
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<sup>2</sup> Commission Staff proposed several revisions to AT&T's proposed Protective Order in their Response to AT&T's Motion. AT&T has no objections to Staff's revisions.

**WHEREFORE**, the AT&T Companies respectfully request that the Missouri Public Service Commission enter an order replacing the current protective order with the AT&T's Companies Proposed Protective Order.

Respectfully submitted this 23<sup>rd</sup> day of May, 2002.

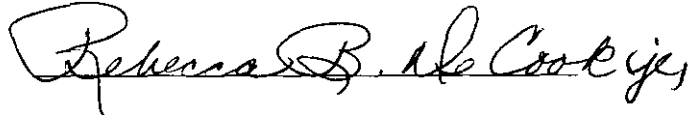
**AT&T COMMUNICATIONS OF  
THE SOUTHWEST, INC., TCG ST.  
LOUIS, INC. AND TCG KANSAS CITY,  
INC.**

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing in Docket TO-2001-65 was served upon the parties on the following service list on this 23<sup>rd</sup> Day of May, 2002 by either hand delivery or placing same in postage paid envelope and depositing in the U.S. Mail.



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