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June 5, 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 Response to Order Directing Filing.

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

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

COMES NOW AT&T Communications of the Southwest, Inc. ("AT&T"), by and through its undersigned counsel, and for its Response to Order Directing Filing, states as follows:

AT&T recommends the Commission adopt the "Hybrid Protective Order" proposed by IP Communications of the Southwest, Inc., as the new standard protective order to be issued in all future telecommunications cases and in current cases upon request.

On May 28, 2002, the Missouri Public Service Commission ("Commission") issued an Order Directing Filing seeking comment from SWBT and IP on four questions. Two of those questions were directed to IP, SWBT and interested parties. AT&T provides its responses to the May 28, 2002 Order herein.

2 The third question presented by the Commission is as follows

AT&T recommends, that going forward, the hybrid protective order proposed by IP should be adopted in all cases where a protective order is issued. This would essentially make the protective order proposed by IP the new standard protective order. For pending cases where a protective order has already been issued,

the Commission should adopt the protective order proposed by IP when requested. AT&T has proposed the adoption of a protective order identical to the protective order proposed by IP in Case No. TR-2001-65 *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 Exchange Telecommunications Companies in the State of Missouri*, and TC-2002-194 *Alma, et al vs Southwestern Bell Telephone Company, et al*. In pending cases, where no party has requested a different protective order in pending cases, the Commission should maintain the existing protective order.

AT&T believes the public interest and a party's right to due process requires the broader access that IP's proposed protective order provides while still providing adequate safeguards to protect a party's data from inappropriate use. Additionally, the broader access afforded under IP's proposed protective order will allow the Commission to develop a full and complete record on which to make its decision and will put Missouri on par with the access provided in other SWBT states.

The primary difference between the current protective order and the protective order proposed by IP is that under the current protective order, only outside consultants and legal counsel may review information designated as "Highly Confidential". Under the protective order proposed by IP, internal experts as well as outside consultants and legal counsel may review information designated as "Highly Confidential". Because internal experts would have the same access as outside consultants, there is no longer any need for the additional proprietary designation contemplated in the current protective orders.

AT&T believes there is simply no reason to treat internal experts any differently than outside consultants when there are adequate safeguards in place. IP's proposed protective order contains those safeguards and internal experts will still be held to the high standard that outside experts are held to. In

many instances, internal experts are in the best position to analyze the information being requested. Additionally, outside experts are expensive to retain and may need substantial time to become familiar with the subject matter. Even the primary opponent to IP's protective order has cited instances in which outside experts are of little value and sought the same access that is afforded under IP's proposed protective order.¹ The Commission should also recognize that internal experts have the same degree of access in other SWBT states as allowed under IP's proposed protective order. For these reasons, the Commission should adopt the protective order proposed by IP in all cases and in existing cases where it is requested.

Response to Question 4

3. The fourth question presented by the RLJ is as follows.

The final question is directed to IP and Southwestern Bell; however, any interested party may respond. What are the advantages and disadvantages of the Commission adopting the standard protective order but granting exceptions to it on a case-by-case basis, in order to allow specific internal experts access to certain highly confidential information?

AT&T's first-hand experience proves that there are substantial disadvantages to a prospective case-by-case review of protective orders. A prospective case-by-case review will result in additional litigation that will be time consuming and create delays.

To date, the process of negotiating non-disclosure agreements that would permit AT&T's internal experts to have access to Highly Confidential information has been time consuming, created unnecessary delays, and more importantly, this process, which is sometimes unsuccessful, has tread heavily upon the due process rights and the ability of parties to fully present their case. The Commission should recognize that when one party is required to use a negotiation process to seek access to data

¹ Case No. TC-2002-190, Mid-Missouri Telephone Company, Petitioner, vs. Southwestern Bell Telephone Company, Respondent, Southwestern Bell's Motion for Access to Data, To Suspend

provided by another party, the providing party has no incentive to readily provide that access. AT&T can cite many examples where this process has impeded AT&T's ability to present its case in a timely matter.

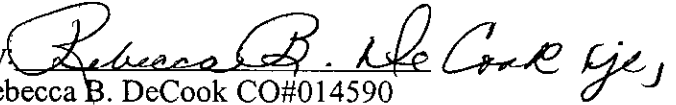
Even if the process changed from the current ad hoc negotiation-type process to a case-by-case decision by the Commission, there would still be significant delays as the parties submitted requests for differing protective orders, responded to the requests filed by other parties, or made other such filings as deemed necessary. This litigation alone could easily add thirty to sixty days to any procedural schedule where there was a dispute over the type of protective order to be issued. While this process might represent an improvement over the current process, this is still inadequate and unnecessary.

Such a process will also introduce the potential for discrimination and create an additional basis for appeal if a party's internal experts are not afforded access to Highly Confidential Information in one proceeding while that same party or another party is provided with similar access in another proceeding.

If there are instances where, because of unique and extenuating circumstances, additional safeguards are necessary, a party may bring those to the Commission. These circumstances should be rare and the party requesting these additional safeguards must bear the burden of proof. This is consistent with the legal standard in trade secret law where the party seeking protection bears the burden of proof. This is also consistent with Missouri's "Sunshine Law" where all documents are presumed to be open unless specifically exempt and those exemptions are to be strictly construed – Section 610.011 RSMo 2000. In considering any request for additional safeguards, the Commission should also consider the degree of access afforded in other jurisdictions.

Respectfully submitted,

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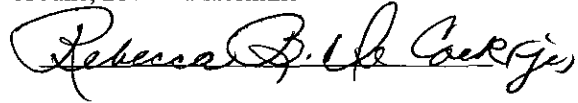
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CERTIFICATE OF SERVICE

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 5th Day of June, 2002 via facsimile



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