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July 1, 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., TCG Kansas City and TCG St. Louis's Direct Testimony of R. Matthew Kohly 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 ges".

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)

AFFIDAVIT OF R. MATTHEW KOHLY

STATE OF MISSOURI)

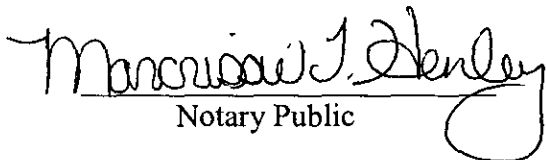
COUNTY OF COLE)

I, R. Matthew Kohly, of lawful age, being first duly sworn deposes and states:

1. My name is R. Matthew Kohly. I am the District Manager for AT&T Communications of the Southwest, Inc. in its Law and Government Affairs organization.
2. Attached hereto and made a part hereof for all purposes is my Direct Testimony.
3. I hereby swear and affirm that my answers contained in the attached document to the questions therein propounded are true and correct to the best of my knowledge and belief.


R. Matthew Kohly

Subscribed and sworn to this 1st Day of July, 2002


Notary Public

My Commission Expires: 8-3-2002

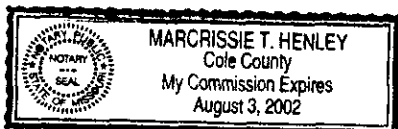


Exhibit No.:

Issue: CLEC Access Rates

Witness: R. Matthew Kohly

Sponsoring Party: AT&T Communications of
the Southwest, Inc., TCG
Kansas City and
TCG St. Louis

Type of Exhibit: Direct Testimony

Case Nos.: TR-2001-65

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

DIRECT TESTIMONY

OF

R. MATTHEW KOHLY

CONSOLIDATED CASE NOS. TR-2001-65

July 1, 2002

**BEFORE THE STATE OF MISSOURI
PUBLIC SERVICE COMMISSION
DOCKET TR-2001-65**

1 **Q. PLEASE STATE YOUR NAME AND ADDRESS.**

2 **A.** My name is R. Matthew Kohly. My business address is 101 West
3 McCarty Street, Jefferson City, Missouri 65101.

4 **Q. BY WHOM ARE YOU EMPLOYED AND WHAT ARE YOUR**
5 **RESPONSIBILITIES?**

6 **A.** I am employed by AT&T Corporation in its Law and Government Affairs
7 organization as District Manager – Government Affairs. In this position I am
8 responsible for the development and implementation of AT&T's and its affiliates'
9 regulatory policy and activities in Missouri.

10 **Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND.**

11 **A.** I have completed a Master of Science in Agricultural Economics from the
12 University of Missouri – Columbia as well as a Bachelor of Science in Business
13 Administration also from the University of Missouri – Columbia.

14 **Q. WHAT IS YOUR PRIOR WORK EXPERIENCE?**

15 **A.** Prior to joining AT&T, I was employed by Sprint Communications
16 Company L.P. as a Manager, State Regulatory Affairs. My responsibilities
17 included the development of Sprint's regulatory policy focusing on issues
18 surrounding competitive market entry such as TELRIC costing of unbundled
19 network elements, universal service, access charges, and Section 271
20 proceedings.

21 Before that, I was employed at the Missouri Public Service Commission
22 as a Regulatory Economist in the Telecommunications Department and, later, on

1 the Commission's Advisory Staff. While in the Telecommunications Department,
2 I assisted in developing Staff's position on issues related to costing, local
3 interconnection and resale, universal service and tariff issues. While serving on
4 the Advisory Staff, I advised the Commission on economic and competitive
5 issues in the telecommunications industry and assisted in the preparation of
6 orders and opinions. Also, while employed at the Commission, I participated on
7 the Commission's Arbitration Advisory Staff assigned to mediation and arbitration
8 proceedings filed pursuant to the 1996 Federal Telecommunications Act.

9 **Q. HAVE YOU PREVIOUSLY FILED TESTIMONY?**

10 **A.** I have filed written testimony and/or testified before the Missouri Public
11 Service Commission, Montana Public Service Commission, Oklahoma
12 Corporation Commission and the Telecommunications Regulatory Board of
13 Puerto Rico.

14 **Q. CAN YOU DESCRIBE THE COMPANIES YOU ARE REPRESENTING?**

15 **A.** I am representing AT&T Communications of the Southwest, Inc., TCG St.
16 Louis, Inc. and TCG Kansas City, Inc. ("AT&T" or "AT&T Companies"). AT&T
17 Communications of the Southwest, Inc. operates as both an interexchange
18 carrier throughout Missouri and as a local exchange carrier in portions of
19 Missouri. TCG Kansas City, Inc. and TCG St. Louis, Inc. are facilities-based
20 local exchange providers that provide local exchange service to business
21 customers in the Kansas City and St. Louis Metropolitan Areas. Through these
22 business activities, the AT&T Companies are both purchasers and providers of
23 switched access.

24 **Q. ARE THE AT&T COMPANIES PROPOSING ANY COST STUDIES IN THIS**
25 **PROCEEDING?**

1 **A.** Not at this time. Because of the procedural difficulties I describe below,
2 AT&T is not in a position to make a determination as to whether it should file cost
3 studies in this case. AT&T may decide to do so later in this proceeding.

4 **Q. CAN YOU EXPLAIN WHY AT&T IS NOT PROPOSING ITS OWN COST**
5 **STUDIES AT THIS TIME?**

6 **A.** Yes. Because of inability for AT&T's internal cost experts to access the
7 cost studies that have been circulated by Staff in this proceeding, AT&T cannot
8 determine the scope and extent of any differences it may have with the Staff's
9 studies and, therefore, cannot determine if it must file its own cost studies. As
10 background, the procedural schedule adopted by the Commission in this case
11 included provisions for Staff to provide the parties with draft cost studies on April
12 1, 2002. Once the parties received and reviewed the draft studies, the parties
13 were scheduled to provide comments to Staff on those studies by May 1, 2002.
14 At that same time, the procedural schedule allowed the parties the opportunity to
15 assess Staff's studies and indicate whether or not they intended to offer their own
16 cost studies as evidence of their access costs in this proceeding.

17 AT&T did receive the draft studies according to schedule. However,
18 because of the protective order issued by the Commission, AT&T's internal cost
19 experts were unable to review those studies or even the results of those studies.
20 Because AT&T's internal experts were unable to have access to Staff's draft
21 studies, AT&T has not had a meaningful opportunity to review the studies or the
22 results and make a decision on whether or not to file its own cost studies.

23 **Q. CAN YOU DESCRIBE THE LIMITATIONS OF THE PROTECTIVE ORDER**
24 **ISSUED BY THE COMMISSION?**

25 **A.** Yes. The Commission issued what is routinely dubbed the "standard
26 protective order". Under the standard protective order, companies are able to

1 designate information as "Highly Confidential". In order to be classified as
2 "Highly Confidential", the information must fall into the following categories;

- 3 • Material or documents that contain information related directly to specific
4 customers;
- 5 • Employee-sensitive information;
- 6 • Marketing analysis or other market-specific information relating to
7 services offered in competition with others;
- 8 • Reports, workpapers, or other documentation related to work produced by
9 internal or external auditors or consultants; or
- 10 • Strategies employed, to be employed, or under consideration in contract
11 negotiations.

12
13 Information designated as Highly Confidential may be reviewed only by attorneys
14 or outside experts retained for purposes of this case. All of the information in
15 Staff's Draft and Final cost studies has been classified as Highly Confidential.
16 As a result, none of AT&T's internal experts have been able to review any of that
17 information.

18 **Q. HAVE AT&T'S INTERNAL EXPERTS BEEN ABLE TO REVIEW STAFF'S COST**
19 **STUDIES THAT ARE PURPORTED TO REPRESENT THE AT&T**
20 **COMPANIES' COSTS OF PROVIDING SWITCHED ACCESS?**

21 **A.** No. AT&T's internal experts have been unable to review Staff's estimates of
22 AT&T's switched access costs. It is my understanding that Staff calculated the
23 estimates of AT&T's costs using models and inputs from at least two other
24 companies. The companies providing those models and inputs classified the
25 models and inputs as Highly Confidential. Because of this, AT&T's internal
26 experts have been unable to review any of Staff's cost studies, even those cost
27 studies that are purported to represent AT&T's costs of providing switched
28 access.

29 **Q. ARE ALL COMPANIES FACING THIS SAME LIMITATION?**

1 **A.** No. Most of the incumbent LEC's in this case have been and continue to be
2 able to review Staff's estimates of their cost of providing switched access. In
3 fact, it is my understanding that Southwestern Bell Telephone Company and
4 possibly others are able to review Staff's cost studies and estimates of the costs
5 incurred by AT&T in the provision of switched access.

6 **Q. DID AT&T EXPECT THESE LIMITATIONS WHEN THE COMMISSION**
7 **ORIGINALLY ISSUED THE PROTECTIVE ORDER IN THIS CASE?**

8 **A.** No. The Commission issued the protective on its own initiative in
9 anticipation of the fact that confidential material may need to be reviewed¹. At
10 that point in the proceeding, it was impossible to know how the case would
11 evolve and or what impact the protective order might have.

12 When the parties met late last year to discuss the case, Staff's consultant
13 proposed to use the FCC's Synthesis Model to estimate access rates. That
14 model and its inputs are open to the public; which was one of the stated reasons
15 for favoring that model. As a result, we expected to be able to review all
16 information, and were not concerned with the protective order limitations.

17 After that meeting, it is my understanding that Staff agreed to use cost
18 studies and cost models produced internally by several of the ILECs in
19 calculating Staff's estimates instead of the FCC's Synthesis Model. AT&T was
20 unaware of this change until Staff was preparing the draft results using the ILEC
21 cost models. Even at that time, Staff indicated the data would be public
22 information and that all parties would have access to the results and underlying
23 data. It was not until Staff was ready to release the draft exchange access cost
24 studies that AT&T became aware that in-house cost experts would not be able to

1 TR-2001-65, Order Establishing Case and Adopting Protective Order, August 8, 2000

1 review the cost data of other local exchange carriers. It was not until AT&T had
2 actually received the draft studies that AT&T realized its in-house cost experts
3 could not even review data purported to represent AT&T's costs.

4 AT&T raised this concern with Staff and was told that Staff was working
5 with the ILECs who provided cost models or cost data to try to obtain access for
6 all parties to the underlying cost information. After it became apparent that those
7 discussions were not going to be fruitful, AT&T began to contact several of the
8 parties to this proceeding. In these discussions, it became clear that AT&T
9 would likely have to enter into separate and, in some cases, potentially different
10 types of agreements with every ILEC in order to fully review the Staff's cost
11 studies, and that a single side agreement addressing access to all parties'
12 information was unlikely.

13 On May 3, 2002, AT&T filed a motion requesting the Commission adopt a
14 new protective order that would permit AT&T's internal experts to review Highly
15 Confidential information. On June 11, 2002, AT&T filed a motion requesting the
16 Commission suspend the procedural schedule until the protective order issue
17 was resolved. This was necessary because the procedural schedule required
18 direct testimony be filed on July 1, 2002

19 **Q. WHAT RESPONSE DID AT&T PROVIDE TO STAFF ON MAY 1, 2002?**

20 A. On May 1, 2002, the AT&T Companies provided a letter to Staff indicating
21 that because of the limitations imposed by the protective order in effect at that
22 time, the AT&T Companies were unable to provide any comments to Staff on the
23 draft studies or to determine whether or not to sponsor their own studies. In that
24 same letter, the AT&T Companies did reserve the right to provide comments to
25 Staff and put forth their own cost models at a future date. Because the

1 protective order issue has not been resolved, AT&T still wishes to reserve that
2 right.

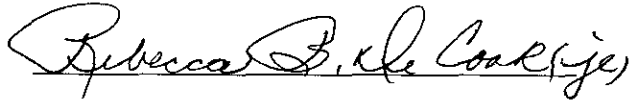
3 For all these reasons, AT&T cannot determine now whether it must offer its own
4 cost studies in this proceeding. AT&T reserves the right to make this
5 determination and offer such studies once it has had the opportunity to gain
6 access to and review Staff's proposed cost studies.

7 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

8 **A.** Yes, it does.

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 1st Day of July, 2002 by either hand delivery or placing same in postage paid envelope and depositing in the U.S. Mail.



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