



January 25, 1999

FILED

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Missouri Public
Service Commission

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
PO Box 360
Jefferson City, MO 65102

Re: Case Number TO-99-227

Dear Judge Roberts:

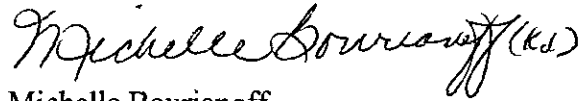
In accordance with the procedural schedule, AT&T is today filing its rebuttal testimony in this docket. As it makes this filing, AT&T wishes to bring to the attention of the Commission that the United States Supreme Court has this morning released its decision in a case that will impact significantly the issues presented by Southwestern Bell's application for 271 relief – *AT&T Corp. v. Iowa Utilities Board*, No. 97-826 (January 25, 1999). While time has not permitted detailed review of the decision, it is clear that the Supreme Court has reinstated several FCC rules that had been vacated by the 8th Circuit – including, for example, the rule prohibiting incumbent local exchange carriers from separating combinations of unbundled network elements ordered by competitive local exchange carriers, and the rule permitting CLECs to "pick-and-choose" provisions from other approved interconnection agreements as they negotiate their own interconnection agreements with the incumbent.

Today's Supreme Court ruling significantly impacts and clarifies the nature of the legal obligations that SWBT must satisfy as a pre-requisite to long-distance entry under section 271 of the Act. Today's ruling changes some of the premises under which SWBT prepared its direct testimony, and under which AT&T (and presumably others) prepared the rebuttal testimony that is due today. In order to apply the law of the land, as announced today, in this docket, all parties must have the opportunity to present testimony that takes account of today's ruling. However, the timing of today's announcement has made it impossible for AT&T to incorporate any consideration of today's ruling in the rebuttal testimony being filed today. The procedural schedule affords parties in AT&T's position no further opportunity to submit testimony (anticipating that SWBT will not file testimony in rebuttal to its own direct case).

AT&T will present promptly, by separate motion, a formal request for such actions as may be appropriate to apply today's Supreme Court ruling to SWBT's pending

application. Meanwhile, AT&T submits this letter to make a record of the fact that the timing of today's Supreme Court pronouncement has foreclosed AT&T from taking account of it in the rebuttal testimony being filed today and to request more generally that this Commission proceed in a manner that affords all parties a fair opportunity to present evidence in this docket that is based on the authoritative interpretation of the Telecommunications Act of 1996 pronounced by the Supreme Court today.

Respectfully submitted,

A handwritten signature in cursive script that reads "Michelle Bourianoff (ks)".

Michelle Bourianoff
AT&T Attorney

cc: Office of Public Counsel
General Counsel