



2345 GRAND BOULEVARD  
SUITE 2500  
KANSAS CITY, MISSOURI 64108-2684  
816-292-2000, FAX 816-292-2001

1050/40 CORPORATE WOODS  
9401 INDIAN CREEK PARKWAY  
OVERLAND PARK, KANSAS 66210-2007  
816-292-2000, FAX 913-451-0875

August 23, 1999

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

**FILED**

AUG 23 1999

Missouri Public  
Service Commission

Re: Case No. TO-2000-16

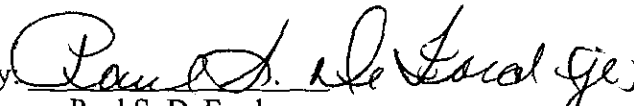
Dear Judge Roberts:

Attached for filing with the Commission is the original and fifteen (15) copies of AT&T Communications of the Southwest Inc's Motion for Reconsideration in the above referenced matter.

I thank you in advance for your cooperation in bringing this to the attention of the Commission.

Very truly yours,

LATHROP & GAGE, L.C.

By:   
Paul S. DeFord

Attachment

cc: All parties of record

STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION

FILED

AUG 23 1999

Missouri Public  
Service Commission

In the Matter of the Motion to )  
Establish a Docket Investigating )  
the IntraLATA Toll Service )  
Provisioning Practices of Missouri )  
Interexchange Carriers, Public )  
Utility or Common Carrier Duties of )  
Interexchange Carriers, Motion to )  
Show Cause, Request Emergency )  
Hearing, and Alternative Petition )  
for Suspension and Modification )

Case No. T0-2000-16

**MOTION FOR RECONSIDERATION**

COMES NOW, AT&T Communications of the Southwest, Inc. to for its Motion for Reconsideration and states as follows:

On August 10, 1999, the Commission issued its Order Directing Notice, Directing Reports and Requiring Record Collection. Therein the Commission instructed its Staff to investigate AT&T's "refusal to serve customers in Secondary Carrier ("SC") exchanges and file a verified report on the results of its investigation." AT&T believes the investigation of business office practices of AT&T is unwarranted. In the event the Commission nonetheless determines to pursue this investigation, AT&T believes that a review of all IXC's business practices would be appropriate. Limiting the investigation to only the business practices of AT&T is discriminatory.

The Mid-Missouri Group's ("MMG") motion that initiated this proceeding requested an investigation into the common carrier obligations of all IXCs<sup>1</sup>. AT&T is not the only carrier that

<sup>1</sup> Case No. T0-2000-16, Mid-Missouri Group's Motion to Investigate IXC IntraLATA Toll Service Provisioning Practices, To Establish Public Utility/Common Carrier Duties of IXCs, Motion for AT&T to Show Cause, and Alternative Petition For Suspension and Modification, page 4.

has chosen not to offer 1+ intraLATA toll services in the exchanges served by the Small Telephone Company Group ("STCG") and the MMG collectively ("Secondary Carriers"). In the STCG's Motion for Clarification, filed in Case No. TO-99-254, the STCG stated that "a list of all companies authorized to provide intraLATA toll service in Missouri will be of limited value to customers because not all of those companies will actually be providing intraLATA toll service in the Small Companies' exchanges". In clear recognition that not all IXC's in Missouri were planning or willing to serve their exchanges, the MMG and STCG proposed to only notify carriers participating in the interLATA equal access notification process in their exchanges of the availability of intraLATA dialing parity<sup>2</sup>. In some exchanges as few as 8 companies were even solicited to provide intraLATA services<sup>3</sup>. Clearly, of the more than 400 IXC's certificated in Missouri, only a very small number provide any service in the Secondary Carrier service territories. Evidence in Case No. TO-99-254 indicated that not all carriers that were solicited had responded that they would provide intraLATA toll services.

With respect to the inquiry as to the availability of facilities, AT&T does not agree with the apparent premise that having sufficient interLATA facilities means that a carrier has sufficient facilities to provide both interLATA and intraLATA services. Many carriers are providing interLATA toll services but not providing intraLATA toll service in Secondary Carrier territory and are in exactly the same position as AT&T. In almost all cases, these carriers are certificated to provide services on a statewide basis and have tariffs similar to those of AT&T on file with the Commission. Despite these facts, no other carriers are being asked to demonstrate whether they have sufficient network facilities to carry this traffic and to justify why they are not serving statewide. Singling out AT&T for a review of its available facilities is discriminatory.

---

<sup>2</sup> Case No. TO-99-254, Surrebuttal Testimony of Robert G. Schoonmaker, page 7.

<sup>3</sup> Case No. TO-99-254, Surrebuttal Testimony of Robert G. Schoonmaker, Schedule RJS-35.

In the intraLATA toll market, AT&T has exactly the same obligations and responsibilities as any other competitive carrier in Missouri. The burden of AT&T's interLATA COLR obligations cannot be extended to the intraLATA COLR market. Each of the questions the Commission directed its Staff and AT&T to answer should be propounded to all IXCs certificated in Missouri. Therefore, AT&T requests the Commission expand the scope of the investigation to include all IXCs and LECs certificated to provide intraLATA toll service Missouri.

The Commission's August 10, 1999 Order also requires AT&T to file a verified report stating, by exchange, the number of orders AT&T has accepted and the number it has declined. If AT&T has not kept these records, the Order requires that it shall state its best approximation of the number of potential customers it has refused to serve, as well as the minimum and maximum number of requests it believes it has refused. Additionally, the Order also stated that if AT&T was not collecting this data, AT&T was to immediately begin keeping this information.

AT&T has the data for the number of orders AT&T accepted in error. AT&T plans to use that data to notify customers that those orders were accepted in error. AT&T will report the details of that information to the Commission in the September 8, 1999 report.

AT&T does not have data related to the number of orders AT&T has refused. Because AT&T does not generally do the billing for customers in the territories served by the MMG and STCG, it does not keep mechanized records of customer contacts. Due to the fact that AT&T does not collect the subject data, it is impossible for AT&T to report this data to the Commission. For this reason, AT&T requests the Commission reconsider this requirement.

AT&T asks that the Commission expedite this process so that the issues raised in the investigation may be resolved as soon as possible. AT&T would prefer to minimize customer confusion about the changes occurring in the intraLATA toll market. Rather than have a lengthy

report and data gathering process, AT&T requests the Commission schedule expedited briefing of the legal issues Staff was ordered to investigate for its September 8, 1999 report. Three of the four issues are legal issues and can be most appropriately addressed by briefs and oral arguments rather than expert testimony and reports. These legal issues are: whether under the terms of AT&T's currently affective tariffs it has an obligation to provide 1+ intraLATA service to all customers who request service where AT&T has sufficient facilities in place; whether AT&T has an obligation as a common carrier or public utility to provide 1+ intraLATA service to all customers; and whether AT&T's offering of 1+ intraLATA toll service to customers in some exchanges and requiring dial around intraLATA toll service in other exchanges violates any Missouri law (particularly Section 392.200 RSMo.). Based upon the briefs and argument if necessary, the Commission could resolve these issues expeditiously.

The only non-legal issue which the Staff was directed to address was whether AT&T has sufficient facilities in place throughout the state to be able to serve 1+ intraLATA customers. AT&T is very concerned about this issue and believes that a Staff report followed by industry comments is not the proper forum to explore this subject. Public disclosure of AT&T's network capacity to others in the industry would be competitively harmful. Such information is highly confidential and must not be included in any report available to AT&T's competitors.

AT&T has already begun discussion of the issue of its capacity with the Staff. In order to fully answer the Commission's questions, AT&T needs additional information related to traffic volumes. Specifically, AT&T needs data related to the busy hour and the total CCS in the busy hour CLLI code. AT&T has no experience in carrying 1+ intraLATA toll services in the SC territory and has no idea of the traffic volumes that AT&T would have to carry if it accepted all

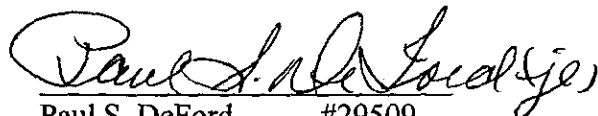
1+ intraLATA toll orders. The fact that the incumbent providers of intraLATA toll service are abandoning this market makes it even more difficult to estimate volumes correctly.

If AT&T were forced to accept 1+ orders in the SC territories, it would not have the luxury of adding customers and capacity over time based upon on marketing efforts and gradual customer acquisition. Instead, because the incumbents are abandoning the market and because of AT&T's position in the interLATA market, it is very likely that AT&T would have large amounts of traffic dumped on its network in a very short period of time. In the very likely event that AT&T does not have sufficient capacity to receive this substantial and almost instantaneous increase in traffic, AT&T's customers, both existing interLATA and new intraLATA, would find substantial difficulties in placing all types of toll calls. If this situation were to occur, AT&T's brand name and reputation for providing quality service would be jeopardized. For these reasons, AT&T requests that the Commission not require the filing of such a report or if such a report is required to not publish the results of the investigation nor allow industry comments.

**WHEREFORE**, for all the foregoing reasons, AT&T requests that the Commission reconsider its August 10, 1999 Order and revise its directives in a manner consistent with this pleading.

Respectfully submitted,

LATHROP & GAGE, L.C.



Paul S. DeFord #29509

LATHROP & GAGE, L.C.

2345 Grand Boulevard

Kansas City, MO 64108

Phone: 816-292-2000

FAX: 816-292-2001

Kevin Zarling TX#22249300  
919 Congress, Ste. 900  
Austin, TX 78701  
Phone: 512-370-2010  
FAX: 512-370-2096

Attorneys for AT&T Communications

**CERTIFICATE OF SERVICE**

The undersigned verifies that the above and foregoing Motion for Reconsideration has been mailed, by U.S. first-class mail, to the attorneys listed, being the attorneys of record, on this 23<sup>rd</sup> day of August, 1999:

Office of Public Counsel  
PO Box 7800  
Jefferson City, MO 65102

W. R. England, III/Sondra B. Morgan  
Brydon, Swearingen & England  
312 E. Capitol Ave., PO Box 456  
Jefferson City, MO 65102

General Counsel  
Missouri Public Service Comm.  
PO Box 360  
Jefferson City, MO 65102

Craig S. Johnson  
Andereck, Evans, Milne, Peace &  
Baumhoer  
PO Box 1438  
Jefferson City, MO 65102

  
Attorney for AT&T Communications