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STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

At a Session of the Public Service
Commission held at its office
in Jefferson City on the 2nd
day of February, 1994.

In the matter of Southwestern Bell Telephone)
Company, GTE Midwest Incorporated, and United)
Telephone Company of Missouri's Tariff Sheets) Case No. TT-94-119
designed to modify primary toll carriers for)
certain exchanges in Missouri.)

ORDER DENYING REQUEST FOR REHEARING

On December 30, 1993, AT&T Communications of the Southwest Inc. (AT&T) filed its Application for Rehearing pursuant to Section 386.500.1, RSMo 1986. This section of the Statutes allows a party to apply for rehearing even where the party requesting the rehearing was not a party to the case. The crux of AT&T's request for rehearing seems to be AT&T's displeasure at the result which this tariff may bring about in another Commission case captioned Staff of the Missouri Public Service Commission v. Southwestern Bell Telephone Company, TC-93-224 (hereafter TC-93-224). On January 12, 1994, Staff of the Missouri Public Service Commission (Staff) filed its Request for Permission to File Suggestions in Opposition to AT&T's Application for Rehearing Out-Of-Time and the Staff simultaneously filed its Suggestions in Opposition to AT&T's Application for Rehearing. On January 19, 1994, AT&T filed its Response to Staff's Suggestion in Opposition to AT&T's Application for Rehearing (hereafter Response).

An Order Suspending Tariffs and Granting Request for Accelerated Procedural Schedule was issued on October 26, 1993. This order provided for an intervention deadline of November 12, 1993. On November 12, 1993, MCI Telecommunications (MCI) filed its Application to Intervene in this case and on November 30, 1993, the Commission granted MCI intervention. AT&T has not denied receiving its copy of the Suspension Order. In fact, in AT&T's Response to Staff's Suggestions AT&T acknowledges that it received a copy of the Suspension

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Order and after a review AT&T determined that its interest could not lawfully be adversely affected by this case. AT&T then made the choice not to participate. In its Response AT&T goes on to state that it has been denied due process because in order to be afforded due process two important conditions must be fulfilled: these are notice and an opportunity to be heard. However, AT&T acknowledges notice and further states that it chose not to request intervention (the opportunity to be heard). The due process requirements have been met.

AT&T alleges that "in this case, even the most careful review of the subject tariff filings and Commission suspension orders could not serve to provide notice that any interLATA access rate could potentially be affected by the decision in this docket." The Commission finds that the initial tariff filings and other initial documents filed in this case reflected the intent of the Applicants that the payments which are exchanged between the primary toll carrier and the local exchange companies undergo significant changes. Furthermore, the Commission finds that the intervention of MCI is indicia that at least one other interexchange carrier reviewed the subject tariff filings and was able to understand the potential of the subject tariff filings.

When AT&T's Application for Rehearing is viewed in light of both cases (TC-93-224 and TT-94-119) it is not clear whether AT&T actually objects to the results reached in Case No. TT-94-119 or whether AT&T simply objects to the impact which this result brings about in Case No. TC-93-224. Due to a stay which the Circuit Court granted in Case No. TC-93-224, the tariffs in both that case and this case have not become effective. However, it is intended that in the event of final approval of the tariffs in this case, the changes which the tariffs would bring about would change the level of payments between local exchange companies and primary toll carriers. Indeed, this was the identified goal as stated by the joint Applicants when TT-94-119 was first filed. The

effect of this change would not be limited to the rates which result from Case No. TC-93-224.

The Commission finds that AT&T had both notice of this case and the opportunity to be heard within this case. The Commission finds that after a review of this case, AT&T chose not to participate. The Commission also finds that AT&T's Application for Rehearing suggests that AT&T does not necessarily object to the result reached in this case in and of itself, but rather, AT&T objects to the result which this case will bring about in TC-93-224. Lastly, the Commission finds that AT&T has failed to state sufficient reasons justifying a rehearing to be granted in this case as required by Section 386.500, RSMo 1986. The Commission will deny AT&T's Application for Rehearing for these reasons.

IT IS THEREFORE ORDERED:

1. That AT&T Communication of the Southwest Inc.'s Application for Rehearing is hereby denied.
2. That this order shall become effective on the date hereof.

BY THE COMMISSION



David L. Rauch
Executive Secretary

(S E A L)

Mueller, Chm., McClure, Perkins,
Crumpton, CC., Concur.
Kincheloe, C., Absent.