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December 18, 1998

The Honorable Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge  
Missouri Public Service Commission  
301 West High Street, Floor 5A  
Jefferson City, MO 65101

**FILED**  
DEC 18 1998  
Missouri Public  
Service Commission

Re: Case Number TO-98-115

Dear Secretary Roberts:

Enclosed for filing in the above referenced case please find an original and fourteen copies of the Response of AT&T Communications of the Southwest, Inc. to Motion to Establish Briefing Schedule.

Thank you in advance for your attention to this matter.

Very truly yours,

LATHROP & GAGE L.C.

By: *Paul S. DeFord* <sup>hmk</sup>  
Paul S. DeFord

PSD:dvb

cc:

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI**

**FILED**  
DEC 18 1998  
Missouri Public  
Service Commission

In the Matter of AT&T Communications of the )  
Southwest, Inc.'s Petition for Second Compulsory )  
Arbitration Pursuant to Section 252(b) of the )  
Telecommunications Act of 1996 to Establish )  
an Interconnection Agreement with Southwestern )  
Bell Telephone Company. )

Case No. TO-98-115

**RESPONSE OF AT&T COMMUNICATIONS OF THE SOUTHWEST, INC.  
TO MOTION TO ESTABLISH BRIEFING SCHEDULE**

COMES NOW AT&T Communications of the Southwest, Inc. (AT&T) and files this Response to Southwestern Bell Telephone Company's (SWBT) Motion to Establish Briefing Schedule:

1. On December 8, 1998, SWBT filed its motion to establish January 6, 1998, and January 25, 1998, as the dates for filing of initial and reply briefs in this arbitration proceeding, respectively. SWBT has pending a Motion to Strike a substantial portion of AT&T's prefiled testimony. AT&T appreciates the Commission's resource constraints regarding the complex cost issues in this arbitration, and expects that the Commission will issue a ruling on SWBT's motion in due course. However, until such ruling is forthcoming, SWBT's motion is premature and not well-taken. It would be a waste of the parties' resources to brief issues that may eventually not be in the record, just as it would be a waste of the Commission's resources to read such briefs.

2. The proposal at the hearing clearly contemplated that the parties would have 30 days after the ruling on the Motion to Strike to prepare their initial briefs. Even without allowing for the actual date of receipt of SWBT's motion, AT&T would have less than 30

days to prepare its initial brief after the Commission rules on SWBT's instant motion. There can be no justification for requiring AT&T to begin work on its initial brief in the anticipation that SWBT's motion might succeed in changing the previously proposed timetable for briefing - - AT&T's only burden should be to respond to SWBT's motion.

3. SWBT's motion cites to the proposal at the hearing regarding the briefing schedule, but then deviates from it. AT&T maintains that the briefing schedule should be tied to a ruling on SWBT's Motion to Strike. However, the pendency of SWBT's Section 271 proceeding<sup>1</sup> is now a factor that was not in existence at the close of the hearing. SWBT may have ample resources to address the requirements of both proceedings simultaneously, however, SWBT's proposed briefing schedule frankly conflicts with the enormous amount of work that AT&T must undertake in a short period of time in the §271 proceeding. AT&T will endeavor to comply with whatever briefing schedule is established, but SWBT's proposed briefing schedule is obviously for its own convenience, and not for that of AT&T nor the Commission.

4. AT&T understands SWBT's desire to move forward and agrees that an effort should be made to obtain a final decision. To that end, assuming the Motion to Strike is denied or withdrawn, AT&T would be willing to have all parties forego briefing and submit the matter for decision as the record currently stands.

WHEREFORE, AT&T requests that SWBT's motion be denied, and that the schedule for initial briefs in this arbitration be set at the previously proposed thirty (30) days

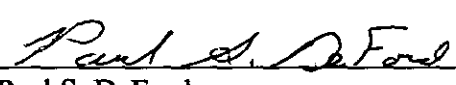
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<sup>1</sup> Case No. TO-99-227.

after an appropriate Commission Order on SWBT's Motion to Strike, with reply briefs due twenty (20) days thereafter. In the alternative AT&T requests that the Motion to Strike be denied (or withdrawn) and the briefing schedule cancelled so that the Commission can proceed to immediate deliberation.

Respectfully submitted,

LATHROP & GAGE L.C.

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Attorneys for AT&T Communications

## CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing was served upon the following persons by depositing a true copy thereof in the United States mail, postage prepaid, this 18th day of December, 1998.

 *by wc*  
AN ATTORNEY FOR AT&T COMMUNICATIONS  
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