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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 24th day of December, 1998.

In the Matter of an Investigation into Various Issues Related to the Missouri Universal Service Fund.	)))	**Case No. TO-98-329**

ORDER GRANTING IN PART AND DENYING IN PART MOTION TO COMPEL

On November 16, 1998, GTE Midwest Incorporated (GTE) filed a motion to compel AT&T Communications of the Southwest, Inc. (AT&T) to respond to certain data requests (DRs). On November 24, AT&T filed a response. Pursuant to Commission order, GTE filed additional information concerning the DRs on December 1, and AT&T filed an additional response on December 7.

The Commission notes that this case was opened on February 4, and the hearings for this phase were established in April (and changed in June), but GTE did not submit its DRs until August despite GTE's knowledge from proceedings in other jurisdictions that AT&T would likely object to many of them. GTE did not move to compel production until seven business days before the hearing began, even though AT&T served its objections almost three months earlier. This puts the Commission in the awkward position of ruling on discovery after the hearing has concluded. The Commission will discuss each data request, the arguments for and against compelling AT&T to answer it, and the Commission's ruling.

DR 1: GTE requested copies of documents that AT&T or Hatfield Associates, Inc. (HAI) relied upon in establishing inputs for the HAI model. GTE explains that it seeks what have been referred to in other proceedings as the "Fassett Documents." AT&T produced the Fassett Documents in this proceeding, but GTE alleges that the versions AT&T has produced in other jurisdictions contain fewer, or no redactions. In response, AT&T states that it believes the documents produced in this proceeding are identical to those produced elsewhere. AT&T does not claim that there is any reason the documents produced in Missouri should have more material redacted, if that is in fact the case. The Commission determines that, if GTE tenders to AT&T, by December 31, 1998, a version of the Fassett Documents with fewer redactions than the one produced here, AT&T shall produce the less-redacted version for use in this proceeding.

DR 2: GTE requested Missouri-specific inputs to AT&T's Transport Incremental Cost Model (TICM). GTE argues that the TICM is the model that AT&T has used for evaluating financial decisions for its long distance network, and that GTE wants to compare the TICM inputs to similar inputs AT&T used in the HAI model. AT&T responds that it no longer uses the TICM, and that reactivating it to provide Missouri inputs would be quite costly.

The Commission finds that any relevance the Missouri-specific TICM inputs might have[1] is outweighed by the burden AT&T would

1 GTE argues that relevance is not an issue in discovery. GTE is not entirely correct, for Missouri courts have held that: "Parties may use discovery in order to obtain relevant information, which means material reasonably calculated to lead to the discovery of admissible

incur in producing them. The Commission will not grant the motion to compel a response to DR 2.

DR 6: GTE requested explanations and documents to support a statement in the HAI description that the level of service quality engineered into the HAI model exceeds, by a substantial margin, that offered by local exchange companies (LECs). GTE claims that this information is critical to determining whether the infrastructure assumed by the HAI model is viable and feasible. However, the information sought appears to be relevant to an evaluation of the claim that the hypothetical HAI network is superior to the existing network, not to an evaluation of the hypothetical HAI network's viability or feasibility. Even if produced, the information would not lend itself directly to an analysis of the HAI network's viability.

Furthermore, the fact that AT&T was unable to produce much support for its claim of the HAI model's superiority is in itself a useful piece of information. The Commission will not attempt to force AT&T to produce documents that will not further the purpose for which GTE claims they are relevant, and that AT&T has, by its failure to produce them, implied do not exist.

DR 7: GTE asked AT&T to identify where certain algorithms pertaining to a module could be found in the HAI model. AT&T responded by providing the C++ code for the module in question. AT&T did not provide any explanation of where in the code the particular algorithms referred to in the DR could be found.

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evidence." 970 S.W.2d 340, State Ex Rel. Crowden v. Dandurand, (Mo. 1998), at 342.

GTE submitted a follow-up DR that asked for an electronic version of the code, and repeated the request for an explanation of where the algorithms could be found. AT&T responded to the follow-up by stating that it does not have and cannot obtain an electronic copy of the code. GTE claims this objection is invalid since it is willing to enter into a protective agreement. However, if AT&T does not have access to the material, the existence of a protective order in this case will not gain it that access.

Since AT&T does not have and cannot obtain the requested electronic copy, an order from the Commission requiring AT&T to provide it would have no practical effect. However, since the parties, the Commission, and apparently even AT&T, one of the model's sponsors in this case, do not have access to the underlying algorithms, the Commission is presented with the HAI model as somewhat of a "black box." Without the benefit of the scrutiny that discovery provides, the Commission and the parties are forced to rely on assurances by the sponsors that the algorithms do what they are intended to do, even though the sponsors do not themselves have access to all of the underlying data and the code.

Notwithstanding AT&T's claims in its December 7 pleading that it does not have an annotated copy of the code, the Commission determines that it should be required to identify where, within the copy of the code that it provided in response to DR 7, the specific algorithms are located.

DR 8: GTE states in its December 1 pleading that AT&T's response to the follow-up to this DR is adequate, so it is no longer at issue.

DR 11: GTE requested the calculations used to derive certain input values to the HAI model. AT&T did not, in response to the original DR or the follow-up, provide the calculations, but simply provided the source data. GTE submitted a follow-up DR, and contends that the calculations were not provided in the response to the follow-up. Although it can reasonably be inferred from the responses to the original DR and the follow-up that no calculations were performed, AT&T removes any doubt by clearly stating in its December 7 pleading that "[t]here are no calculations used to derive the default values." There appears to be no further issue with respect to this DR.

DR 18: GTE requested the geocoded data for Missouri that was used to produce the clusters in the HAI model. AT&T responded that the information sought is intellectual property of third parties that AT&T does not own, cannot lawfully provide, and to which AT&T does not have access. To the extent the underlying data (or algorithms) in the HAI model are not subject to discovery and thus a thorough airing through the adversary process, the ability of the Commission to rely on the results of the HAI model is undermined. The motion to compel a response to this DR will be denied.

DR 19: GTE requested a count of the number of residential locations that were successfully geocoded to the point level for Missouri and for each Missouri county. In its December 7 response,

AT&T states that it has provided geocoding success rates by wire center. AT&T argues that:

> The Commission will choose a model that estimates support at no less than the wire center level (aggregated to the calling scope level) and the CB [census block] and county information is more granular and not easily identified back to the wire center level.

AT&T's argument appears to be that this data for the county, state, or census block level would be irrelevant to the Commission's ultimate decision. The Commission determines that the number of successfully geocoded residences by county and for the state as a whole is relevant, and will order AT&T to produce it.

DR 20: GTE asked for the same information as in DR 19, as applied to business lines. AT&T objected, in part, because the information was not relevant. In neither of its pleadings did GTE explain the relevance of the HAI model's success rate in geocoding businesses, and the Commission is unable to discern any relevance. The motion to compel a response to this DR will be denied.

DR 23: GTE requested studies or analyses performed by AT&T or HAI that support AT&T's contention that the geocoded locations in the HAI model are accurate to within six decimal places of a degree. AT&T provided in response its December 23, 1997 "Ex Parte Presentation" to the FCC in Docket No. 96-45. In response to a follow-up DR, AT&T provided an explanation of why the "Ex Parte Presentation" was responsive. GTE requests that the Commission compel AT&T to provide all of the requested documentation or state that no more exists. This is a reasonable request. The Commission will order AT&T to provide all such studies or analyses performed by AT&T or HAI,

or state that no more exist. To the extent that such documents exist that AT&T is not able to produce, AT&T shall identify who produced them and when they were produced.

DR 24: GTE requested the PNR National Access Line model and all associated inputs used to produce the HAI model runs for Missouri. AT&T objected that the DR seeks information that is the property of others to which it does not have access.

In its December 1, 1998, Order Regarding Motion to Compel, the Commission directed GTE to provide, for each DR at issue, a statement of whether the information sought could be obtained through a visit to PNR's facilities. For each DR, GTE's statement was either "No," "N/A," or the following:

> A PNR visit would be of only limited use. While GTE has reason to believe that PNR houses or has access to this particular data, past experiences from PNR on-site visits have shown that a thorough analysis of the requested material is not possible due to several reasons. First, PNR visits are generally limited to a few days. At PNR's own admittance, a full inspection of the data process takes several months. Second, there are limited resources available to our experts on such visits. In the past, our experts were provided with one computer with no or little pre-installed software. Moreover, due to financial limitations, the on-site work is done by only one or two experts at a time. Third, in the past our experts were not allowed to save any work product or even take notes without prior approval by AT&T and/or PNR, therefore severely hindering the evaluation process. To fully evaluate the extensive pre-processing in HAI, our experts would need to take the data off-site and be given sufficient time. In the absence of these conditions, a trip to PNR does not warrant the high costs to GTE. GTE is more than willing to sign all necessary non-disclosure and/or confidentiality agreements.

In its November 24 response to GTE's motion to compel, AT&T notes that the Nevada commission found that an on-site review of the data used by

PNR was adequate as long as facilities provided by PNR allowed parties to conduct as thorough a review as they could have if the review was conducted off-site.

The protective order issued in this case contemplates that a party may require other parties to view highly confidential material on-site. Paragraph C states:

> Materials or information designated as HIGHLY CONFIDENTIAL may at the option of the furnishing party, be made available only on the furnishing party's premises and may be reviewed only by attorneys or outside experts who have been retained for the purpose of this case, unless good cause can be shown for disclosure of the information off-premises and the designated information is delivered to the custody of the requesting party's attorney. Outside expert witnesses shall not be employees, officers or directors of any of the parties in this proceeding. No copies of such material or information shall be made and only limited notes may be taken, and such notes shall be treated as the HIGHLY CONFIDENTIAL information from which notes were taken.

Because of its past experiences with on-site reviews, GTE apparently did not conduct any on-site review for this case. The Commission cannot speculate on whether AT&T and GTE could have, by themselves, arranged a more productive on-site visit in this case. However, had GTE brought its concerns about the inadequacy of on-site visits to the Commission's attention earlier, the Commission could have ordered AT&T to ensure that the on-site facilities were adequate. Setting up and conducting an on-site visit at this late date is somewhat problematic, given the motion filed by all the parties, including GTE, requesting that the Commission issue its decision very quickly.

The Commission is not convinced by GTE's "boilerplate" about on-site visits that such a visit would not have allowed GTE to

examine and analyze the particular information sought in this DR. The Commission will not grant GTE's motion to compel a response to this DR.

DR 25: Although GTE was not satisfied with the answer to this DR, it has apparently been largely satisfied by the answer it received to the follow-up DR. GTE's remaining concern is with the response to subpart b.(ii) of the follow-up DR which asked:

> Was this a manual or automated process? If the process was automated, explain how the user can implement the automated process to produce the described results. If the process was manual, provide the estimated time to complete the assignment process.

AT&T's response was:

> The process was manual, but could be automated. AT&T does not have an estimate of the time to produce the described results through a manual method.

GTE claims that this answer "is not fully responsive," but it does not explain why it believes it to be so. Subpart b.(ii) asked whether the process was manual or automated, and the response clearly states that it is manual. Since it is manual, subpart b.(ii) requests an estimate of the time to conduct the manual process and AT&T's response is that it does not know what the estimated time is. It appears that AT&T has fully answered this DR, so the Commission will not compel a further response.

DR 28: GTE requested workpapers associated with the projection of business lines. AT&T objected in part that the DR asked for irrelevant material because the DR requested information related to business customers, who are not included in Missouri's universal service plan. GTE did not directly address this objection, except to

say that "the information clearly is relevant to understanding the HAI model." The Commission finds that the ability of the HAI model to project business lines and model business customers is not relevant to this proceeding, and will not compel AT&T to answer this DR.

DR 29: GTE requested documents related to the estimated total business count. AT&T objected in part that the DR asked for irrelevant material because the DR requested information related to business customers, who are not included in Missouri's universal service plan. GTE did not directly address this objection, except to say that "the information clearly is relevant to understanding the HAI model." The Commission finds that the ability of the HAI model to project business lines and model business customers is not relevant to this proceeding, and will not compel AT&T to answer this DR.

DR 30: GTE requested a description of the normalization procedure the HAI model uses for business lines, if it is different from that used for residence lines. AT&T objected in part that the DR asked for irrelevant material because the DR requested information related to business customers, who are not included in Missouri's universal service plan. GTE did not directly address this objection, except to say that "the information clearly is relevant to understanding the HAI model." The Commission finds that the ability of the HAI model to project business lines and model business customers is not relevant to this proceeding, and will not compel AT&T to answer this DR.

DR 31: GTE requested an electronic copy of the database used for business lines. AT&T objected in part that the DR asked for

irrelevant material because the DR requested information related to business customers, who are not included in Missouri's universal service plan. GTE did not directly address this objection, except to say that "the information clearly is relevant to understanding the HAI model." The Commission finds that the ability of the HAI model to project business lines and model business customers is not relevant to this proceeding, and will not compel AT&T to answer this DR.

DR 32: GTE requested an electronic copy of the database used for residence lines. AT&T objected, stating that it does not have and may not be able to[2] obtain this information. GTE claims this objection is invalid since it is willing to enter into a protective agreement. However, if AT&T does not have access to the material, the existence of a protective order in this case will not gain it that access.

Since AT&T does not have and may not be able to obtain the requested information, an order from the Commission requiring AT&T to provide would have no practical effect. However, since the parties, the Commission, and apparently even AT&T, one of the model's sponsors in this case, do not have access to this material, the Commission is presented with the HAI model as somewhat of a "black box." As noted above, to the extent the underlying data in the HAI model are not

2 AT&T's statement about the information requested in this DR is that it "in some cases is information even AT&T does not have access to." AT&T, and GTE in its initial motion, discussed DRs in groups if they sought similar information, rather than discussing each DR separately. It is impossible for the Commission to determine, for any specific DR that AT&T discusses as part of a group, whether AT&T has access to the information sought. However, given AT&T's claim that it cannot provide this information even if it has access to it, it is not critical for

subject to discovery and thus a thorough airing through the adversary process, the ability of the Commission to rely on the results of the HAI model is undermined. The motion to compel a response to this DR will be denied.

DR 34: GTE requested an electronic copy of the Data Preparation and Clustering Software along with all relevant documentation used to derive the HAI model database. AT&T objected, stating that it does not have and may not be able to obtain this information. GTE claims this objection is invalid since it is willing to enter into a protective agreement. However, if AT&T does not have access to the material, the existence of a protective order in this case will not gain it that access.

Since AT&T does not have and may not be able to obtain the requested information, an order from the Commission requiring AT&T to provide would have no practical effect. However, since the parties, the Commission, and apparently even AT&T, one of the model's sponsors in this case, do not have access to this material, the Commission is presented with the HAI model as somewhat of a "black box." As noted above, to the extent the underlying data in the HAI model are not subject to discovery and thus a thorough airing through the adversary process, the ability of the Commission to rely on the results of the HAI model is undermined. The motion to compel a response to this DR will be denied.

DR 35: GTE asked AT&T to provide an illustration of a cluster containing an odd number of branch cables. AT&T objected

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the Commission to make this determination.

partly on the basis that it did not understand why GTE could not create the illustration. GTE submitted a follow-up DR in which it asked for similar, but more specific, information. AT&T provided a response to the follow-up, but GTE contends it does not illustrate the requested cluster. GTE reiterates its inability to create the illustration, and, in its December 7 pleading, AT&T reiterates its inability to understand why GTE cannot create the illustration.

Since AT&T never claims that it would be burdensome to provide the requested illustration, and since GTE has repeatedly stated its inability to create it, the Commission will order AT&T to provide the information requested in the follow-up DR (No. 111).

DR 37: GTE states in its December 1 pleading that AT&T's response to the follow-up to this DR is adequate, so it is no longer at issue.

DR 39: GTE asked for a comparison of total sheath miles as calculated in the Hatfield Model Release 4.0 for GTE's Missouri service territory to the same statistic in HAI 5.0. AT&T objected on the basis of relevance, and provided no response. GTE submitted a follow-up DR in which it requested the data that AT&T provided in response to a similar question posed in Florida. AT&T responded to the follow-up DR by restating its objection and adding that it could not identify a similar question posed in Florida. In its December 1 pleading, GTE identifies the Florida request (and AT&T, in its December 7 pleading, states that it had determined to which Florida request GTE referred). Although the relevance of a comparison between the current version of the model and earlier versions is not readily

apparent, there is little burden to AT&T to produce the response it gave in Florida, and the Commission will order AT&T to produce the response.

DR 45: GTE requested the total number of addresses contained in the Metromail National Consumer Database. AT&T objected, stating that it does not have and may not be able to obtain this information. GTE claims this objection is invalid since it is willing to enter into a protective agreement. However, if AT&T does not have access to the material, the existence of a protective order in this case will not gain it that access.

Since AT&T does not have and may not be able to obtain the requested information, an order from the Commission requiring AT&T to provide would have no practical effect. However, since the parties, the Commission, and apparently even AT&T, one of the model's sponsors in this case, do not have access to this material, the Commission is presented with the HAI model as somewhat of a "black box." As noted above, to the extent the underlying data in the HAI model are not subject to discovery and thus a thorough airing through the adversary process, the ability of the Commission to rely on the results of the HAI model is undermined. The motion to compel a response to this DR will be denied.

DR 47: GTE asked whether there is a difference between the number of households in a census block group estimated by Metromail and Claritas, and, if there is a difference, for a quantification of it. AT&T objected, stating that it does not have and may not be able to obtain this information. GTE claims this objection is invalid

since it is willing to enter into a protective agreement. However, if AT&T does not have access to the material, the existence of a protective order in this case will not gain it that access.

Since AT&T does not have and may not be able to obtain the requested information, an order from the Commission requiring AT&T to provide would have no practical effect. However, since the parties, the Commission, and apparently even AT&T, one of the model's sponsors in this case, do not have access to this material, the Commission is presented with the HAI model as somewhat of a "black box." As noted above, to the extent the underlying data in the HAI model are not subject to discovery and thus a thorough airing through the adversary process, the ability of the Commission to rely on the results of the HAI model is undermined. The motion to compel a response to this DR will be denied.

DR 49: GTE states in its December 1 pleading that AT&T's response to the follow-up to this DR is adequate, so it is no longer at issue.

DR 50: GTE requested documentation supporting the reduction of investment for low density remote terminal digital loop carrier systems between the HAI 4.0 and the HAI 5.0a. AT&T objected on the basis of relevance and did not provide an answer. GTE submitted a follow-up DR, and AT&T answered it. AT&T's answer provides a fairly detailed explanation of the costs used to calculate this investment. GTE argues the response is inadequate because it does not explain the differences between the two versions of the model. In its December 7 response, AT&T explains that some of the difference is due to the fact

that the two versions assume the use of different DLC equipment. The Commission finds that, inasmuch as the differences between the current and a previous version of the model are not particularly relevant or informative, AT&T's answer is adequate to this DR and the Commission will not order a further explanation.

DR 51: GTE states in its December 1 pleading that AT&T's response to the follow-up to this DR is adequate, so it is no longer at issue.

DR 52: GTE asked for some information about a particular formula in the HAI model. Although AT&T responded, GTE did not believe the response fully answered the question and submitted a follow-up DR. AT&T answered that as well, although not to GTE's satisfaction. GTE is concerned about the responses to subparts (b), (d), and (e) of the follow-up DR. AT&T's answers to (b) and (d) appear to be responsive, and AT&T apparently attached worksheets to each (although they were not included in GTE's pleading). The Commission is unable to determine why GTE finds the responses inadequate, and will not order AT&T to respond further. AT&T's response to subpart (e) of the follow-up DR, however, does not appear to be responsive to the question at all, and the Commission will order AT&T to answer it fully and directly.

DR 55: GTE states in its December 1 pleading that AT&T's response to the follow-up to this DR is adequate, so it is no longer at issue.

DR 56: GTE states in its December 1 pleading that AT&T's response to the follow-up to this DR is adequate, so it is no longer at issue.

DR 59: GTE states in its December 1 pleading that AT&T's response to the follow-up to this DR is adequate, so it is no longer at issue.

DR 61: GTE asked for access to some of the HAI model preprocessing data for Missouri, including some minimum spanning tree (MST) data. GTE appears to have been willing to obtain this data through a visit to PNR, but wanted the ability to take some of the data from PNR premises. In its November 24 response, AT&T states that it initially proposed such a visit, but that GTE has instead pursued the ability to take away from PNR some of the requested data. In its December 7 response, AT&T states:

> DR No. 61 asks for specific cluster and minimum spanning tree data. As noted above, GTE already has the MST data. Furthermore, the HAI working files that are available from running the model in the possession of GTE contains [sic] the cluster information, V&H coordinate location, and the wire centers to which they are assigned. Therefore, GTE currently has an electronic copy of this data. GTE's original request asked for comparable to that provided for the Minnesota USF proceeding, i.e., a PNR site visit, but then asks to take away PNR data, a good deal of which it appears that GTE already has. GTE merely restates its "form" rationale for seeking the PNR data.

Because GTE did not offer any specific information that relates to this DR, it is impossible for the Commission to determine why, despite asking for a site visit, GTE decided that such a visit was not worth attempting. Since GTE is still pursuing its efforts to compel AT&T to produce the information, it would appear that GTE does not agree with

AT&T's claims that it already has an electronic copy of this data. However, without a specific explanation of what data it does have, and a specific explanation of why, despite asking in August for a site visit, it never attempted one, the Commission will not order AT&T to provide any further information in response to this DR.

DR 73: This DR has four subparts, and AT&T objected generally that they seek irrelevant information but nonetheless provided responses. The first subpart asks for the number, location and addresses of the geocoded customers. AT&T did not provide a specific response to this DR, but directed GTE to its responses to DRs 9 and 17. GTE claims that AT&T's response to DR 9 simply provided the percent of non-geocoded residence locations by density zone, and that AT&T did not provide a response to DR 17. The location and addresses of the customers is clearly the kind of information that AT&T contends is the valuable property of another entity. For the reasons stated in this Order in relation to DRs 7 and 18, the Commission will not compel AT&T to provide this information. However, providing the number of geocoded customers in a GTE exchange should not reveal any valuable third-party information, and the Commission will order AT&T to provide it.

The second subpart asks for the total number of residential households, housing units and access lines per census block (CB). AT&T's response simply refers GTE to its response to subpart a, and states that HAI does not have information on housing units. The Commission will not order AT&T to provide information on the HAI model's treatment of housing units because the HAI does not deal with

them. Since AT&T did not object to providing information on households and access lines, and in fact claimed to have provided it in its response to subpart a, the Commission will order AT&T to provide this information.

The third subpart asks for the total amount of road feet per CB in a designated GTE Missouri exchange. Since AT&T claims that the HAI model does not perform such a calculation, the Commission will not order AT&T to provide it.

The fourth subpart asks for the boundary distance in feet per CB in a designated GTE Missouri exchange. The relevant portion of AT&T's response is that it does not have access to this information directly and that it would be burdensome to provide. AT&T does not explain what it means by the statement that it does not have access to this information directly, nor does it explain how producing it would be burdensome. The Commission will order AT&T to provide the boundary distance in feet per CB in a designated GTE Missouri exchange.

In response to the fifth subpart, AT&T states that the information is not available from the HAI model. The Commission will not order AT&T to provide this information.

DR 77: GTE asked, in this DR and a follow-up, for the totality of the information that AT&T witness Madden and the HAI outside plant engineering team relied upon to create or justify inputs. AT&T properly objected that such a request is overbroad, and the Commission will not compel AT&T to provide further information.

DR 78: GTE states in its December 1 pleading that AT&T's response to the follow-up to this DR is adequate, so it is no longer at issue.

DR 81: GTE states in its December 1 pleading that AT&T's response to the follow-up to this DR is adequate, so it is no longer at issue.

DR 82: GTE asks how a user of the HAI could, independently of the model, determine an efficient mix of host, remote, and standalone switches. GTE asks AT&T to describe the information upon which this determination should be based. In its follow-up DR, "GTE again requests AT&T to provide assistance with explicitly developing an efficient network...." AT&T explained how a user can change the inputs to reflect that user's judgment on what an efficient mix is, but declined to describe how to arrive at that judgment. There is no reason to require AT&T to explain to GTE how it can, independently of the HAI model, determine an efficient network, and the Commission declines to do so.

DR 84: GTE's request was for AT&T to provide work sheets, assumptions, or calculations that went into the development of certain tables. AT&T's response stated that there were no work sheets or calculations, and listed the major assumptions. In a follow-up DR, GTE asked AT&T to provide all calculations from the amalgamated process or state that there are no such calculations. Given that AT&T's response to the initial DR started by stating that "[t]here are no work sheets or calculations...," it is difficult to understand why

GTE asked for a confirmation of this clear statement, and the Commission will not order AT&T to provide one.

DR 86: After discussing its original DR, its follow-up, and AT&T's response to each, GTE states that the question it wants answered is whether a ring architecture is assumed or calculated for entrance facilities. In its December 7 pleading, AT&T states that "[a] ring architecture is not assumed for entrance facilities." There no longer appears to be an issue with respect to this DR.

DR 89: GTE asks for information about the cost of additional software to add features to lines once a switch is already in place. AT&T responded, in its original response, in its response to the follow-up DR, and in its December 7 pleading, that the HAI model does not provide for adding software once the switch is in place. GTE claims that the answer is completely unresponsive, especially in light of AT&T's response to DR 130. However, GTE does not explain why the answer is unresponsive, nor does it explain how the response to DR 130 is in any way related to the questions posed in this DR. The Commission determines that AT&T's responses are adequate and will not order a further response.

DR 90: GTE discusses its original request and its follow-up and states that it is still unsatisfied with AT&T's explanation of its validation efforts. In its December 7 response, AT&T states unequivocally that it "did no independent validation effort...." There no longer appears to be an issue with respect to this DR.

DR 92: The follow-up to this DR is the same one that followed-up DR 25, and as discussed above, the Commission declines to order a further response.

DR 94: GTE states in its December 1 pleading that AT&T's response to the follow-up to this DR is adequate, so it is no longer at issue.

DR 95: GTE states in its December 1 pleading that AT&T's response to the follow-up to this DR is adequate, so it is no longer at issue.

DR 101: GTE states in its December 1 pleading that AT&T's response to the follow-up to this DR is adequate, so it is no longer at issue.

GTE requests, in its November 16 motion, that the Commission schedule oral argument on this matter. Since both GTE and AT&T, at the Commission's direction, filed additional pleadings providing more explanation about the matter, there is no need for oral argument.

GTE also requested that it be allowed to supplement its testimony if its motion to compel is granted. Had GTE submitted its DRs promptly, and filed its motion to compel expeditiously when it learned that AT&T had objections, the Commission would not be in the position of deciding whether to allow supplemental testimony after the hearing has ended. Nonetheless, the Commission is interested in having as complete a record as possible, and will allow GTE to file a pleading describing the testimony it would file if given the opportunity. GTE should explain in detail the nature of the

testimony, whether it relates to an issue already set forth in the Hearing Memorandum (and which one) or a new issue, why the testimony could not have been filed until the new information was received, and when the testimony will be ready for filing.

IT IS THEREFORE ORDERED:

1. That the motion to compel answers to data requests filed on November 16, 1998, and supplemented on December 1, 1998, by GTE Midwest Incorporated is denied in part and granted in part as discussed herein.

2. That AT&T Communications of the Southwest, Inc. shall provide, by January 8, 1999, answers to the Data Requests concerning which the motion to compel is granted.

3. That, if GTE Midwest Incorporated believes it needs to file supplemental testimony, it shall file a pleading requesting leave to file such testimony and describing such testimony as discussed herein no later than January 19, 1999.

4. That the request for oral argument filed on November 16, 1998, by GTE Midwest Incorporated is denied.

5. That this order shall become effective on January 5, 1999.

BY THE COMMISSION

Dale Hardy Roberts

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

Lumpe, Ch., Crumpton, Drainer,
Murray and Schemenauer, CC.,
concur.

Mills, Deputy Chief Regulatory Law Judge