

AT&T

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May 30, 2002

Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge  
Missouri Public Service Commission  
P.O. Box 360  
Jefferson City, MO 65 101

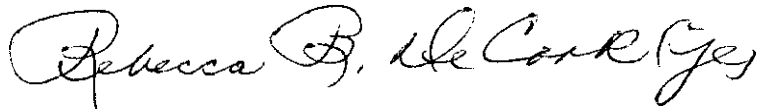
Re: Case No. TC-2002-194

Dear Judge Roberts:

Attached for filing with the Commission is the original and eight (8) copies of AT&T Communications of the Southwest, Inc.'s, TCG St. Louis, Inc., and TCG Kansas City, Inc.'s Response to Southwestern Bell Telephone's Response to AT&T Regarding Protective Order.

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

Very truly yours,

A handwritten signature in cursive script that reads "Rebecca B. DeCook".

Rebecca B. DeCook

Attachment

cc: All Parties of Record



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ALMA TELEPHONE COMPANY, ET AL., )  
)  
PETITIONERS )  
)  
vs. ) CA E NO. TC-2002-194  
)  
SOUTHWESTERN BELL TELEPHONE COMPANY, )  
SPRINT MISSOURI, INC., ET AL. )  
)  
RESPONDENTS )

COMES NOW AT&T Communications of the Southwest, Inc. ("AT&T"), by and through its undersigned counsel, and submits this Response, pursuant to 4 CSR 240-2.085, and states as follows:

2. As the Commission considers AT&T's request in this case, the Commission should also be aware that SWBT has made a very similar request in Case No. TC-2002-190, Mid-Missouri Telephone Company, Petitioner, vs. Southwestern Bell Telephone Company.

Respondent. In that complaint, SWBT filed a Motion for Access to Data, To Suspend the Procedural Schedule and Refer the Case to a Staff-Supervised Investigation, requesting that the Commission issue an order that would give SWBT's internal experts access to traffic data designated by Mid-Missouri Telephone Company as "Highly Confidential" or "HC". AT&T's request here and SWBT's request in TC-2002-190 seek access for internal experts to the same type of information - information that SWBT claims here is not prohibited by the standard Protective Order. The only difference is that in TC-2002-190, SWBT is seeking access to data and in this proceeding SWBT is trying to deny AT&T access to similar types of data.

3. Regarding SWBT's first argument opposing AT&T's request, SWBT erroneously claims that AT&T's concerns about internal AT&T personnel having adequate access to call data under the "standard" legacy protective order is misplaced. AT&T completely disagrees and SWBT's own request in TC-2002-190 belie this claim. In this proceeding, SWBT has collected and compiled call traffic data purported to represent calls made by AT&T's customers that terminate to third party LECs. In its Response, SWBT seems to assert that because the data classified by SWBT as "Highly Confidential" or "HC" is purported to represent AT&T's own call data, AT&T's internal experts can review that data. However, under the legacy standard protective order, documents that are classified as "Highly Confidential" by the providing company may not be viewed by internal experts of the receiving company, regardless of what that information is purported to represent. There is simply no exception under the legacy protective order as SWBT asserts in this proceeding. In SWBT's Motion for Access to Data filed in TC-2002-190, SWBT acknowledges there is no such exception and complains that Mid-Missouri's designation of call data that is purported to represent calls originated or transited by SWBT as Highly Confidential or "HC" means that

SWBT's network technicians that handle switching, trunking and translations matters - the people that need to have access to this information - would not be permitted to have access to it. Under the standard protective order, only attorneys and outside consultants are permitted to have access to information designated as HC (SWBT's Motion for Access to Data, pg. 3)

While AT&T believes these exclusions are unnecessary, this is the proper interpretation of the limitations imposed by the existing standard protective order. SWBT's assertions

to the contrary in this proceeding are false and completely contrary to SWBT's own statements in TC-2002-190.

4. In its Response, SWBT made the sweeping statement that the "customer communication and call related information flows from the originating carrier to all carrier on the call path, and is (or should be) provided by the originating carrier so that the other carrier handling the call can correctly route and bill the call." SWBT provides no support for this assertion. However, as SWBT properly notes this information is highly confidential. Therefore, to the extent SWBT, or any other party, produces such information in this proceeding as highly confidential, the clear and unambiguous terms of the existing standard protective order would prohibit access to this information by internal experts.<sup>1</sup> Even if AT&T's internal experts were somehow able to access the data gathered by SWBT and classified as "HC" that is purported to represent traffic originated by AT&T's local customers, that exception will not permit AT&T sufficient access to the data necessary to put forth its own case and does not provide adequate due process. The basis of this complaint is "SWBT Transiting Usage Summary Reports" that SWBT provided to the complainants. These reports are generated by SWBT and are purported to represent messages and minutes originated by AT&T end-users served by Unbundled Network Element-Platform ("UNE-P"). Such calls originate in SWBT's switch, transit SWBT's network and terminate to the complainants. AT&T believes these reports are inaccurate. In order to demonstrate this, it will be necessary for AT&T's internal experts to review all supporting information gathered and compiled by SWBT. One potential reason SWBT's reports are in error is that messages and minutes reported by SWBT as belonging to AT&T may not be truly calls placed by AT&T's end-users. Instead these calls may truly represent calls made by another LEC's customers. In these instances, the underlying call data and information that AT&T's internal experts need to review will be call data of another company's end-users. Even if one accepts SWBT's exception described above under the legacy protective order, AT&T's internal experts would still be unable

<sup>1</sup> AT&T would also note that SWBT does not have license to disclose confidential information of AT&T to other LECs, in the manner it apparently has in these "Transiting Usage Summary Reports." if this information is indeed AT&T traffic information, SWBT's disclosure and use on this information is limited under the terms of the interconnection agreements. SWBT's disclosure of this data to third parties violates the terms of the interconnection agreements.

to review other information that may be necessary to AT&T's defense of the complaint filed by the Petitioners in this proceeding.

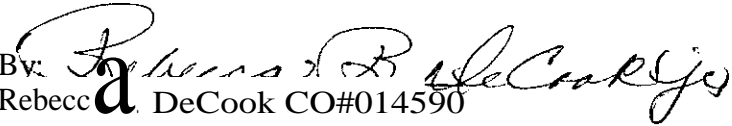
5. In addition to reviewing underlying call detail, AT&T will also need to have its internal experts review the methods and procedures employed by SWBT, and possibly other LECs, for gathering and compiling the type of information reported in the SWBT Transiting Usage Summary Reports. AT&T's internal experts may also need to review customer records to determine the customer's intraLATA toll carrier selection and which intraLATA toll carrier is actually carrying the calls. AT&T anticipates that much of this information classified as highly confidential. Under the legacy protective order, AT&T's internal experts, who would be in the best position to analyze and assess this information, would likely not have access to this data. This is unacceptable and violates AT&T's right to due process in this proceeding, impairing AT&T's ability to adequately participate in the proceeding and mount a defense to the Petitioner's Complaint.

6. In TC-2002-190, *Mid-Missouri Telephone Company, Petitioner, vs. Southwestern Bell Telephone Company, Respondent*, SWBT filed a motion requesting access to data that is similar, if not identical, to the type of data that AT&T's internal experts will need to review in this proceeding. In that case, SWBT is seeking access to data purported to represent calls originated by SWBT's end-users as well as access to data purported to represent calls originated by other carriers; carriers that are potentially in direct competition with SWBT. In that Motion, SWBT requested the Commission issue an order allowing SWBT's internal employees to have access to data classified by Mid-Missouri as "Highly Confidential". That is precisely the relief AT&T seeks in this proceeding and what AT&T's Protective Order would permit.

7. Finally, SWBT's second area of opposition is that three levels of classification are necessary rather than the two proposed by AT&T. AT&T believes this argument is irrelevant and fails to justify denying AT&T's internal experts access to the information necessary for AT&T to put forth its case. According to SWBT, in 1988 the Commission determine<sup>d</sup> that three levels of classification (Highly Confidential, Proprietary, Non-Proprietary or Public) were necessary rather than two (Confidential, Public) as proposed by AT&T. Beyond suffering from status quo bias and

Respectfully submitted this 23<sup>rd</sup> day of May, 2002.

AT&T COMMUNICATIONS OF  
THE SOUTHWEST, INC., TCG ST.  
LOUIS, INC. AND TCG KANSAS CITY,  
INC.

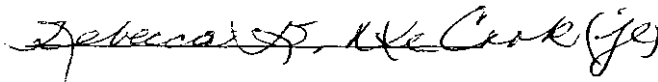
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing in Docket TC-2002-194 was served upon the parties on the following service list on this 30th Day of May, 2002 by either hand delivery or placing same in postage paid envelope and depositing in the U.S. Mail.



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