



Kevin K. Zarling  
Senior Attorney

November 1, 1999

Suite 900  
919 Congress Avenue  
Austin, Texas 78701-2444  
512 370-2010  
FAX: 512 370-2096

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

FILED

NOV - 1 1999

Re: Case No. AX-2000-115

Missouri Public  
Service Commission

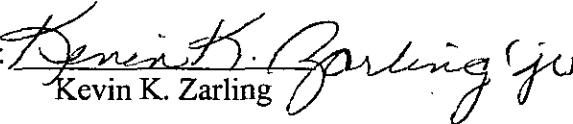
Dear Judge Roberts:

Attached for filing with the Commission is the original and fifteen (15) copies of AT&T Communications of the Southwest, Inc.'s Comments 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,

AT&T COMMUNICATIONS OF THE  
SOUTHWEST, INC.

By:   
Kevin K. Zarling

Attachment

cc: Office of Public Counsel  
General Counsel

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

In the Matter of Proposed Rules to Update     )  
the Rules of Practice and Procedure            )     Case No. AX-2000-115

**FILED**  
NOV - 1 1999  
Missouri Public  
Service Commission

**COMMENTS OF AT&T COMMUNICATIONS OF THE SOUTHWEST, INC.**

**4 CSR 240-2.075 Intervention**

In the current proposed rule AT&T would propose that in Subsection (4) the phrase "The commission 'may' on application permit any person to intervene . . .", should be changed to "The commission 'shall' on application permit any person to intervene . . .". It is unclear why, if a person makes the required showing under Subsection (4), that person should not be granted intervention as a matter of right.

**EXPEDITED INTERVENTION**

AT&T would also propose two additional changes to the proposed rule. The first change would be an addition to Subsection (2), or could be a stand-alone subsection that is appropriately numbered, and it involves the rights of parties who have moved to intervene. Drawing on its experience with other administrative agencies, AT&T has found that persons benefit from expedited intervention given that in the vast majority of cases: 1) persons do not seek to intervene in cases for which they truly do not have standing, and 2) intervention is infrequently opposed. However, the speed and volume of cases at administrative agencies has increased tremendously in recent years, and much can develop in a case before a motion to intervene can be ruled on, whether the intervention is opposed or not. Accordingly, AT&T proposes that persons who move to

intervene should be granted party status immediately, pending a ruling by the presiding officer.

### **PROPOSED RULE**

(Add to Subsection 2 or as a stand-alone subsection): **Rights of persons with pending motions to intervene.** Persons who have filed motions to intervene shall have all the rights and obligations of a party pending the presiding officer's ruling on the motion to intervene.

### **LATE INTERVENTION**

The proposed rule allows late intervention for "good cause." AT&T respectfully suggests that the standard ought to consider more than "good cause," unless the Commission will plainly consider "good cause" to subsume issues of the public interest and the effect of the late intervention on the parties. AT&T recommends some standards to assist parties in presenting their motion for good cause, and to assist the presiding officer in determining when good cause exists. The following proposed language represents what AT&T believes to be appropriate criteria for determining when a late intervention should be granted:

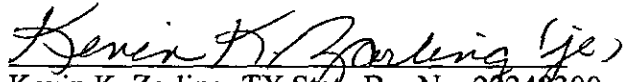
### **PROPOSED RULE LANGUAGE**

#### **(5) Late intervention.**

(A) A motion to intervene that was not timely filed may be granted. In acting on a late filed motion to intervene, the presiding officer shall consider:

1. any objections that are filed;
2. whether the movant had good cause for failing to file the motion within the time prescribed;
3. whether any prejudice to, or additional burdens upon, the existing parties might result from permitting the late intervention;
4. whether any disruption of the proceeding might result from permitting late intervention.

Respectfully submitted,



Kevin K. Zarling, TX State Bar No. 2249300

AT&T COMMUNICATIONS

OF THE SOUTHWEST, INC.

919 Congress Avenue, Suite 900

Austin, Texas 78701-2444

512-370-2010

512-370-2096 (FAX)

**ATTORNEY FOR  
AT&T COMMUNICATIONS  
OF THE SOUTHWEST, INC.**

## CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed or hand-delivered to all counsels of record as shown on the attached service list this 1<sup>st</sup> day of November, 1999.

  
Kevin K. Zarling

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

General Counsel  
Public Service Commission  
PO Box 360  
Jefferson City, MO 65102