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July 20, 1999

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

FILED

JUL 20 1999

Missouri Public
Service Commission

Re: Case No. TO-2000-16

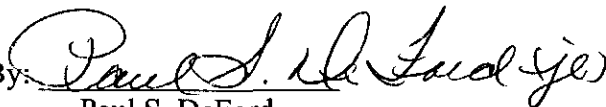
Dear Judge Roberts:

Attached for filing with the Commission is the original and fifteen (15) copies of AT&T Communications of the Southwest Inc's Response to the Mid-Missouri Groups Motion to Investigate IXC IntraLATA Toll Service Provisioning Practices, to Establish Public Utility/Common Carrier Duties of IXC's, Motion for AT&T to Show Cause, and Alternative Petition for Suspension and Modification 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,

LATHROP & GAGE, L.C.

By: 
Paul S. DeFord

Attachment

cc: All parties of record

BEFORE THE PUBLIC SERVICE COMMISSION
STATE OF MISSOURI

FILED

JUL 20 1999

Missouri Public
Service Commission

In the Matter of the Motion to)
Establish a Docket Investigating the)
intraLATA Toll Service Provisioning)
Practices of Missouri Interchange)
Carriers, Public Utility or Common)
Carrier Duties of Inter Exchange)
Carriers, Motion to Show Cause,)
Request for Emergency Hearing,)
and Alternative Petition for Suspension)
and Modification.)

Case No. TO-2000-16

**AT&T COMMUNICATIONS OF THE SOUTHWEST, INC.'S RESPONSE
TO THE MID-MISSOURI GROUPS MOTION TO INVESTIGATE IXC
INTRALATA TOLL SERVICE PROVISIONING PRACTICES, TO
ESTABLISH PUBLIC UTILITY/Common CARRIER DUTIES OF
IXC'S, MOTION FOR AT&T TO SHOW CAUSE, AND ALTERNATIVE
PETITION FOR SUSPENSION AND MODIFICATION**

COMES NOW, AT&T Communications of the Southwest, Inc. ("AT&T") and for its response to the Mid-Missouri Groups Motion to Investigate IXC IntraLATA Toll Service Provisioning Practices, to Establish Public Utility/Common Carrier Duties of IXCs, Motion for AT&T to Show Cause, and Alternative Petition for Suspension and Modification ("Motion") and the Concurrence of the Small Telephone Company Group ("STCG") and states as follows:

1. On July 9, 1999, the Mid-Missouri Group filed the above-referenced Motion.

On July 15, 1999, the STCG filed its Concurrence to the Motion. The Mid-Missouri Group Motion is based upon erroneous statements of the fact and substantially flawed legal analysis.

While each and every defect will not be addressed in detail AT&T will demonstrate that the Motion is totally without merit.

2. The Mid-Missouri Group first alleges that the Commission's decision to permit the PTCs to exit the Secondary Carrier ("SC") markets was premised on the assumption that the IXC's would ubiquitously provide one plus intraLATA service in those exchanges. AT&T's original plan to enter into those markets, however, was intended to be very limited. Further, AT&T's subsequent decision not to enter those markets was communicated to the Commission by an application for rehearing. If the Mid-Missouri Group's contention was correct, the Commission could have modified its decision allowing the PTC's to exit the SC territories, but no such order has been issued.

3. The Mid-Missouri Group contends that the Commission's Order allows IXC's to choose not to be on the ("available IXC") list, but nonetheless somehow requires IXC's to serve prospective intraLATA customers on a one plus basis. The Mid-Missouri Group believes that requirement was imposed in recognition of the fact that the IXC's are common carriers and are thus required to provide service under their filed tariffs and promotional practice tariffs. AT&T disagrees with the Mid-Missouri Group's interpretation of the Commission's Order. AT&T finds nothing in the Commission Order requiring any IXC to enter the one plus intraLATA market in any particular area of the state based upon a customer request for such service. To the extent, if any, AT&T has a common carrier obligation, that obligation is being met by AT&T's continued offering of dial around intraLATA services (i.e. 1010XXX).

4. The Mid-Missouri Group next alleges that based upon information obtained from their customers it appears that AT&T had agreed to provide one plus intraLATA service to some of their customers but refused to provide that service to other customers. The Mid-Missouri Group contends that this will result in unlawful and unreasonable discrimination between customers that are similarly situated. The Mid-Missouri Groups premise is incorrect. AT&T service representatives may have advised customers in error that AT&T would provide one plus intraLATA service in Secondary Carrier territories. The fact is that AT&T has placed no such service orders with the Secondary Carriers. At present AT&T does not intend to offer any one plus intraLATA service in those exchanges. AT&T is taking steps to identify and, if necessary, notify any customers whose one plus intraLATA order AT&T accepted in error.

5. The Mid-Missouri Group also expresses its concern about the business practices of IXC's in advising customers as to what services are available. As previously indicated, AT&T acknowledges that some customer service representatives may have provided incorrect information to some customers. AT&T has taken steps to educate its customer service representatives so that they will provide accurate information to customers inquiring as to the availability of various AT&T services. The isolated incidents of customers receiving incorrect information does not warrant a full blown investigation into the "business practices" of IXC's.

6. The Mid-Missouri Group next alleges that AT&T's instructions that the Mid-Missouri Group Companies stop advising customers that AT&T is an available one plus intraLATA carrier constitutes a violation of the Commission's Order. The Mid-Missouri Group apparently believes that the Commission ordered customer notice constitutes a

Commission decision that AT&T is required to provide that service to customers. Again the Mid-Missouri Group is incorrect. The customer notice directed by the Commission in its Report and Order was apparently intended to reflect AT&T's position with respect to its entry plan. As the Commission is aware, AT&T's entry plan has changed and therefore the notice sent to customers is no longer correct.

7. The Mid-Missouri Group expresses its belief that AT&T desires to terminate its provisioning of tariffed and approved promotional practice intraLATA toll services in small company exchanges in order to better compete in the urban areas of Missouri served by Southwestern Bell Telephone Company. The Mid-Missouri Group goes on to state that these actions of AT&T may place LEC's in violation of FCC Orders directing that customer PIC selections be honored in the absence of a PIC freeze and may also violate slamming rules. The Mid-Missouri Groups' "beliefs" are wholly unfounded. AT&T is not abandoning any service or customer in Missouri at this time. In fact, it is the PTCs that are abandoning customers and no longer providing service. The Mid-Missouri Groups' concerns with respect to customer PIC selections are similarly unfounded. AT&T has not delivered or caused to be delivered any one plus intraLATA PIC selection to any Secondary Carrier. While there may have been some confusion with respect to what customer service representatives had indicated to customers, no one plus intraLATA orders were delivered to Secondary Carrier LECs. Thus there can be no basis for the contention that any FCC order or slamming rules will be violated.

8. The Mid-Missouri Group alleges that AT&T's decision not to enter the one plus intraLATA market in SC's territories constitutes a knowing refusal to comply with the Commission's Order and makes AT&T liable for penalties and possible imprisonment. The

Mid-Missouri Group requests that the Commission issue an Order directing AT&T to "show cause" why it and its employees, agents, or officers should not be liable for such fines, penalties, and imprisonment as provided by law. Mid-Missouri's request demonstrates a fundamental lack of understanding of Missouri law. Simply put there is no provision in Missouri law which would permit the Commission to conduct a "show cause proceeding."

If the Mid-Missouri Group is indeed serious about its allegations, it may file a complaint wherein it could attempt to prove that some act or omission of AT&T constitutes an actionable violation of Missouri law, tariff or Commission order. When stripped of its emotional rhetoric, the Mid-Missouri Group's pleading is bare and would not constitute a sustainable complaint.

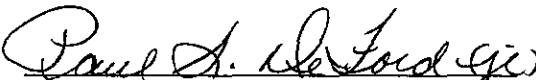
9. Finally, the Mid-Missouri Group suggests that if IXC's are not required to provide One Plus intraLATA toll service and SC exchanges, the Commission should delay the termination of the PTC Plan until a later date sufficient to assure that rural customers are not unwittingly left without adequate selection of large toll carriers, assuring the availability of reasonably priced toll services and reasonable parity with those available in urban or other rural areas. Alternatively, the Mid-Missouri Group requests the Commission to consider suspending PTC Plan termination until after the Missouri Universal Service Fund is operational. While AT&T does not object to either of these requests, it nonetheless does not believe these steps are particularly helpful or necessary. First there is no indication that there will not be sufficient choice among other IXC's or newly created IXC's to meet the needs of SC customers. Further AT&T is not convinced that the Missouri Universal Service Fund will

operate in such a manner as to significantly affect or resolve the problems faced in providing toll services to SC customers.

WHEREFORE, for all the foregoing reasons, AT&T requests that the Mid-Missouri Groups' Motion and the STCG's concurrence therein be denied in their entirety.

Respectfully submitted,

LATHROP & GAGE L. C.

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


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 20th day of July, 1999.

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