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BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of Application of AT&T )  
Communications of Ohio Inc. for ) Case No. 97-1483-CT-ZAC  
Approval of a Contract Between AT&T )  
And Ashland, Inc. )

In the Matter of the Application of AT&T )  
Communications of Ohio, Inc. for ) Case No. 97-1484-CT-ZAC  
Approval of a Contract Between AT&T )  
And State of Ohio Bureau of Worker's )  
Compensation. )

In the Matter of Application of AT&T )  
Communications of Ohio Inc. for ) Case No. 97-1485-CT-ZAC  
Approval of a Contract Between AT&T )  
And MTMNet, Inc., LLC )

In the Matter of Application of AT&T )  
Communications of Ohio Inc. for ) Case No. 97-1486-CT-ZAC  
Approval of a Contract Between AT&T )  
And State Teacher's Retirement System of )  
Ohio )

In the Matter of Application of AT&T )  
Communications of Ohio Inc. for ) Case No. 97-1487-CT-ZAC  
Approval of a Contract Between AT&T )  
And State of Ohio, Auditor of State )

In the Matter of Application of AT&T )  
Communications of Ohio Inc. for ) Case No. 97-1488-CT-ZAC  
Approval of a Contract Between AT&T )  
And Ohio Department of Development )

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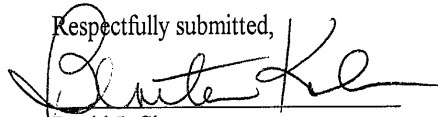
MOTION TO RENEW PROTECTIVE ORDERS

AT&T Communications of Ohio, Inc. ("AT&T"), by its attorneys and pursuant to Rule 4901-1-24(D) and (F) of the Commission's rules, moves for a renewal of the protective orders keeping confidential the designated confidential and/or proprietary information contained in the contracts previously filed in the above-captioned cases. The

customer underlying each contract has a competitive alternative and disclosure of the redacted portions would give an unfair advantage to AT&T's competitors. Rates and terms are the only pieces of information which are redacted in the public filing. The reasons underlying this motion are detailed in the attached Memorandum in Support. Consistent with the requirements of the rule, three (3) unredacted copies of the confidential contract information which is the subject of this motion were previously filed under seal and currently remain under seal.

Dated: March 30, 1999

Respectfully submitted,



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**MEMORANDUM IN SUPPORT**

On November 13, 1997, AT&T filed the above-referenced contracts along with its motion for a protective order.<sup>1</sup> In that motion, AT&T requested that certain portions of those contracts, relating to the prices and terms, be kept confidential and under seal.

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<sup>1</sup> As may be apparent from the case numbers, all the above contracts are for the provisioning of competitive IXC services.

Under the Commission's previous rulings, the protective orders were automatically approved. .

By this motion, AT&T requests that the information designated as confidential and/or proprietary in the contracts filed in the above-captioned case continue to be protected from disclosure. AT&T therefore requests that the Commission renew its previous protective orders in the above-captioned cases. AT&T has negotiated this contract with its customer who has a competitive alternative. Public disclosure of the redacted information would give an unfair advantage to AT&T's competitors. This fact has, and will not change, going forward.

Rule 4901-1-24(D) of the Ohio Administrative Code provides that the Commission or certain designated employees may issue an order which is necessary to protect the confidentiality of information contained in documents filed with the Commission's docketing division to the extent that state or federal law prohibits the release of the information and where non-disclosure of the information is consistent with the purposes of Title 49. The Commission and its Staff have full access to the information in order to fulfill its statutory obligations. No purpose of Title 49 would be served by the public disclosure of the information.

The need to protect the designated information from public disclosure is clear and has been affirmed by this Commission. There is compelling legal authority supporting the requested protective order. While the Commission has often expressed its preference for open proceedings, the Commission also long ago recognized its statutory obligations with regard to trade secrets:

The Commission is of the opinion that the "public records" statute must also be read in pari materia with Section 1333.31, Revised Code ("trade secrets" statute). The latter statute must be interpreted as evincing the recognition, on the part of the General Assembly, of the value of trade secret information.

In re General Telephone Co., Case No. 81-383-TP-AIR (Entry, February 17, 1982.)

Likewise, the Commission has facilitated the protection of trade secrets in its rules (O.A.C. § 4901-1-24 (A) (7)).

The definition of a "trade secret" is set forth in the Uniform Trade Secrets

Act:

"Trade secret" means information, including the whole or any portion or phase of any scientific or technical information, design, process, procedure, formula, pattern, compilation, program, device, method, technique, or improvement, or any business information or plans, financial information, or listing of names, addresses, or telephone numbers, that satisfies both of the following:

- (1) It derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use.
- (2) It is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

R.C. § 1333.61(D). This definition clearly reflects the state policy favoring the protection of trade secrets such as the information which is the subject of this motion.

Courts of other jurisdictions have held that not only does a public utilities commission have the authority to protect the trade secrets of a public utility, the trade secrets statute creates a duty to protect them. New York Tel. Co. v. Pub. Serv. Comm. N.Y., 56 N.Y. 2d 213 (1982). Indeed, for the Commission to do otherwise would be to

negate the protections the Ohio General Assembly has granted to all businesses, including public utilities, through the Uniform Trade Secrets Act. This Commission has previously carried out its obligations in this regard in numerous proceedings. See, e.g., Elyria Tel. Co., Case No. 89-965-TP-AEC (Finding and Order, September 21, 1989); Ohio Bell Tel. Co., Case No. 89-718-TP-ATA (Finding and Order, May 31, 1989); Columbia Gas of Ohio, Inc., Case No. 90-17-GA-GCR (Entry, August 17, 1990).

In Pyromatics, Inc. v. Petruziello, 7 Ohio App. 3d 131, 134-135 (Cuyahoga County 1983), the Court of Appeals, citing Koch Engineering Co. v. Faulconer, 210 U.S.P.Q. 854, 861 (Kansas 1980), has delineated factors to be considered in recognizing a trade secret:

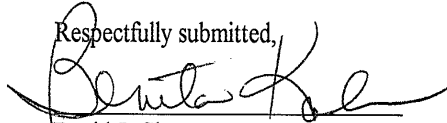
(1) The Extent to which the information is known outside the business, (2) the extent to which it is known to those inside the business, i.e., by the employees, (3) the precautions taken by the holder of the trade secret to guard the secrecy of the information, (4) the savings effected and the value to the holder in having the information as against competitors, (5) the amount of effort or money expended in obtaining and developing the information, and (6) the amount of time and expense it would take for others to acquire and duplicate the information.

For all of the information which is the subject of this motion, AT&T considers and has treated the information as a trade secret. This treatment has continued since the filing of the contracts in November of 1997. In the ordinary course of business of AT&T, this information is stamped confidential, is treated as proprietary and confidential by AT&T employees, and is not disclosed to anyone except in a Commission proceeding and/or pursuant to staff data request.

The Attachment to AT&T's Memorandum in Support of its November 13, 1997 Motion For Protective Order lists the information which has been redacted from the associated filing and further describes why it should be granted protected status. For the foregoing reasons, AT&T requests that designated information continue to be protected from public disclosure and that the Commission renew its protective orders in the above-captioned cases.

Dated: March 30, 1999

Respectfully submitted,



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