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November 10, 1999

The Honorable Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge  
Missouri Public Service Commission  
301 West High Street, Floor 5A  
Jefferson City, Missouri 65101

FILED<sup>3</sup>

NOV 10 1999

Missouri Public  
Service Commission

Re: Case No. AX-2000-114

Dear Judge Roberts:

Enclosed for filing with the Missouri Public Service Commission in the above-referenced case is an original and 14 copies of Southwestern Bell Telephone Company's:

1. Motion to Accept Reply Comments; and
2. Reply Comments

Thank you for bringing this matter to the attention of the Commission.

Very truly yours,

*Leo J. Bub / TM*

Leo J. Bub

Enclosure

cc: Attorneys of Record

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

**FILED<sup>3</sup>**  
NOV 10 1999

In the Matter of the Proposed Rule 4 CSR   )  
240-2.070 Practice and Procedure -       )  
Complaints.                                       )

Case No. AX-2000-114

Missouri Public  
Service Commission

**SOUTHWESTERN BELL TELEPHONE COMPANY'S  
MOTION TO ACCEPT REPLY COMMENTS**

Southwestern Bell Telephone Company, pursuant to 4 CSR 240-2.080(12), respectfully moves the Missouri Public Service Commission to accept Southwestern Bell's Reply Comments in this rulemaking. In support of its Motion, Southwestern Bell states:

1. On September 1, 1999 the Commission initiated this rulemaking by publishing proposed procedural rule changes in the October 1, 1999 Missouri Register, Vol. 24, No. 19. In its instructions published with the proposed rule, the Commission indicated that "anyone may file a statement in support or opposition to this proposed rule" and that such comments were to be filed by November 1, 1999. No provision, however, was made for the filing of Reply Comments and the Commission specifically stated that "no public hearing is scheduled" in this rulemaking.

2. Under the Commission's current rulemaking procedures, there are provisions under which the Commission may receive reply comments. 4 CSR 240-2.180(4) provides that the Commission may either provide for the submission of comments on a proposed rule by a specific date not less than 30 days after the publication date; or "for both a written comment period and hearing." Under 4 CSR 240-2.180(6), "hearings on rulemaking may be for commissioner questions or for the taking of initial or reply comments." (emphasis added). And the Commission typically provides parties such an opportunity to express their views in rulemakings. For example, the Commission provided for public hearings in its recent

rulemakings on proposed Safety Standards (4 CSR 240-18.010); Surety Bonding Requirements (4 CSR 240-32.110); Snap-Back Procedures (4 CSR 240-32.120); and Billing Practices (4 CSR 240-33.010-33.140). (See, October 1, 1999 Mo. Register, Vol. 24, No. 19, pp. 2340-2377).

3. Here, no hearing has been scheduled which would allow parties to present their views on the comments filed by other parties.

4. Southwestern Bell, after reviewing comments filed by other parties in this rulemaking, has concerns about certain proposals made in those comments and wishes to express them to the Commission.

WHEREFORE, Southwestern Bell respectfully requests the Commission to accept the Reply Comments being filed simultaneously with this Motion.

Respectfully submitted,

SOUTHWESTERN BELL TELEPHONE COMPANY

BY

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

In the Matter of the Proposed Rule 4 CSR )	
240-2.070 Practice and Procedure - )	Case No. AX-2000-114
Complaints. )	

**SOUTHWESTERN BELL TELEPHONE COMPANY'S  
REPLY COMMENTS**

Southwestern Bell Telephone Company, pursuant to 4 CSR 240-2.080(12), respectfully submits the following Reply Comments to certain proposals made by other parties in this rulemaking:

1. On November 1, 1999 AT&T of the Southwest, Inc. recommended that the Missouri Public Service Commission adopt additional rules under 4 CSR 240-2.070, Complaints, that provide for expedited complaint resolution. This new rule proposed by AT&T contains five subparts and is nearly a full page in length.
2. Although the Commission has initiated a rulemaking for 4 CSR 240-2.070, the rule dealing with complaints, its rulemaking is for the purpose of considering the rule it seeks to promulgate and which it has published in the Missouri Register. If AT&T seeks to have an additional rule promulgated, it must, under existing Rule 4 CSR 240-2.180(3), submit a petition to the Commission seeking promulgation of the new rule.
3. Among other things, a party filing a petition to promulgate a new rule must cite legal authority which authorizes, supports or requires a rulemaking action requested by the petition (4 CSR 240-2.180(3)(A)(4)); provide an estimation of the effect of the rulemaking on private persons or entities sufficient to form the basis of a fiscal note as required under Chapter 536, RSMo (4 CSR 240-2.180(3)(A)(5)); and provide a verification of the petition by the petitioner under oath or affirmation (4 CSR 240-2.180(3)(A)(6)). AT&T's request to promulgate

an additional rule for expedited complaint resolution does not meet these minimum requirements.

4. In addition, before the Commission can adopt a new rule that a party submits for promulgation, 4 CSR 240-2.180(4) requires the Commission to issue a notice of proposed rulemaking for the Secretary of State to publish in the Missouri Register. Such publication provides an opportunity for interested parties to file comments on the proposed rule. The required notice has not been provided to the Secretary of State of AT&T's proposed rule for expedited complaint resolution, nor has it been published in the Missouri Register for comment by other parties. And here, AT&T only served its proposed rule on OPC and Staff.

5. Moreover, providing for expedited complaint resolution is unnecessary. Already, a party bringing a complaint may petition the Commission to expedite its normal complaint handling procedure. A party may request the Commission to expedite service on a respondent; to shorten the response time given to a respondent; and to expedite hearing, briefing and the Commission's decision as well. There is no need to create a special rule for expedited complaint resolution when the Commission already has a mechanism in place to accommodate a party's perceived need to expedite the complaint process.

WHEREFORE, Southwestern Bell respectfully requests the Commission to reject AT&T's proposal for the Commission to adopt additional rules providing for expedited complaint resolution.

Respectfully submitted,

SOUTHWESTERN BELL TELEPHONE COMPANY

BY Leo J. Bub /tm

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**CERTIFICATE OF SERVICE**

Copies of these documents were served on the following parties by first-class, postage prepaid, U.S. Mail on November 10, 1999.

*Leo J. Bub*

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