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June 16, 2000

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

FILED

JUN 16 2000

Dear Judge Roberts:

Re: Case No. TC-2000-56

Missouri Public
Service Commission

Enclosed for filing with the Commission in the above-referenced case are an original and eight (8) copies of Southwestern Bell Telephone Company's Response to Notice and Order to Show Cause to Avoid Dismissal.

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

Very truly yours,

A handwritten signature in cursive script that reads "Mimi B. MacDonald".

Mimi B. MacDonald

Enclosures

cc: Attorneys of Record
Mr. Tom Cupples
Mr. Jim Levin

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED
JUN 16 2000
Missouri Public
Service Commission

Tom Cupples,)
Complainant,)
vs.)
Southwestern Bell Telephone Company,)
Respondent.)

Case No. TC-2000-56

SOUTHWESTERN BELL TELEPHONE COMPANY'S
RESPONSE TO NOTICE AND ORDER TO SHOW
CAUSE TO AVOID DISMISSAL

Comes now Southwestern Bell Telephone Company ("SWBT") and, for its Response to Notice and Order to Show Cause to Avoid Dismissal, states as follows:

1. On July 26, 1999, Complainant Tom Cupples ("Complainant") filed a Complaint against SWBT regarding a billing dispute with SWBT.
2. On September 15, 1999, SWBT filed a Request for Mediation.
3. On September 20, 1999, SWBT filed its Motion to Dismiss and, in the Alternative, Answer. In SWBT's Motion to Dismiss, SWBT asserted that a variety of circumstances, which started with Complainant's request to transfer his service, led to a billing dispute between Complainant and SWBT. SWBT further asserted that SWBT had credited Complainant for all charges associated with any alleged errors, both errors of Complainant and SWBT, and that all charges then reflected on Complainant's account are for services actually rendered and are past due and owing. SWBT requested mediation to resolve the dispute.
4. On September 23, 1999, the Commission issued its Notice Directing Response to Mediation Request, ordering Complainant to accept or decline the request for mediation.

5. On October 29, 1999, the University of Missouri-Columbia Community Mediation Service sent a notice to the Office of Public Counsel advising that it was closing its file since: "Mr. Cupples has failed to contact the Clinic and respond to the mediation request."

6. On December 3, 1999, SWBT filed its Motion to Dismiss and in the Alternative to Set Prehearing Conference asserting that other than filing the original complaint, Complainant failed to pursue this case. SWBT further asserted that Complainant continues to enjoy telephone service without the requirement that he pay debts incurred nearly a year earlier. SWBT urged the Commission to dismiss the complaint for failure to prosecute, and in the alternative to set a prehearing conference so that this case could be resolved.

7. On or about December 4, 1999, Complainant filed a Response to Southwestern Bell Telephone Company's Motion to Dismiss and in the Alternative to Set Prehearing Conference and Complainant's Request for Immediate Ruling of Default Against Southwestern Bell Telephone Company and in the Alternative Complainant's Request for Mediation.

8. On December 8, 1999, the Commission issued its Order Setting Prehearing Conference and Requiring Filing of Procedural Schedule, setting a prehearing conference for December 30, 1999.

9. On December 15, 1999, SWBT filed its Request for Mediation, again requesting mediation and further requesting that the prehearing conference be postponed.

10. On December 17, 1999, the Commission entered its Mediation Referral Order and Order Canceling Prehearing Conference.

11. This case proceeded to mediation on February 28, 1999. Complainant represented himself. Kevin K. Selsor, Ella B. Oatts, Robin A. Meyer, and Phyllis Mitchell participated in the mediation on behalf of SWBT. The mediation proceeded for five (5) hours.

At the conclusion of the mediation, SWBT agreed that it would credit Complainant: (a) \$4.80 for late payment charges that appeared on his September 9, 1999 telephone bill; (b) \$25.00 for a returned check charge that appeared on his September 9, 1999 telephone bill; (c) \$3.20 for late payment charges that appeared on his March 13, 2000 telephone bill; and (d) \$1.41 for an internet carrier charge. SWBT believed that, with the exception of these charges, Complainant agreed to pay the disputed amount of \$485.42 as well as all undisputed amounts (as of February, 2000, the total amount due and owing was \$620.09).

12. When SWBT did not receive a copy of the proposed Settlement Agreement from the Center for Dispute Resolution, SWBT contacted the Center for Dispute Resolution. Professor Levin indicated that Complainant changed his mind and again did not believe that he owed the outstanding balance on his telephone bill. Professor Levin requested SWBT to prepare a short summary again explaining Complainant's account balance.

13. In a letter dated March 30, 2000, counsel for SWBT sent Professor Levin a copy of a summary of the facts in this case (a copy of the summary is attached hereto and marked as Exhibit A).

14. Professor Levin forwarded this summary to Complainant.

15. SWBT has since contacted the Center for Dispute Resolution on numerous occasions. However, SWBT has been unable to resolve this matter with Complainant.

16. Since February 28, 2000, Complainant has only made one payment to SWBT. Complainant made that payment by check in the amount of \$133.42. That sum represented the amount due for Complainant's March telephone bill. Complainant's check was dishonored by his bank. Thus, Complainant has effectively not made a payment to SWBT since the mediation. As of the date of the filing of this Response, Complainant's outstanding balance is \$1,013.98.

17. Complainant owes SWBT \$1,013.98 (only \$485.42 of which is disputed). Nevertheless, Complainant continues to enjoy telephone service without the requirement that he pay his debts.

18. SWBT, therefore, respectfully requests the Commission to dismiss Complainant's Complaint and order Complainant to pay his outstanding balance to SWBT.

WHEREFORE, Southwestern Bell Telephone Company prays that this Commission consider its Response to Notice and Order to Show Cause to Avoid Dismissal, dismiss this Complaint, order Complainant to pay his outstanding balance to SWBT, together with any further relief the Commission deems just and proper.

Respectfully submitted,

SOUTHWESTERN BELL TELEPHONE COMPANY

By 

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LEO J. BUB #34326

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Date	Charges Incurred On Account Number (636)939-2446-627	Charges Incurred On Account Number (636)939-2446-058	Payment Received and/or Credit Given	Total Amount Due and Owing	Remarks
2/13/99	\$239.42 (old address)	\$200.22 (new address)		\$439.64	
2/26/99			\$239.42 Credit Given	\$200.22	Mr. Cupples called in and requested a bill adjustment of \$239.42 because he alleged that SWBT did not turn off the phone at his old address on the requested due date. SWBT gives Mr. Cupples \$239.42 credit.
3/15/99			\$239.42 Payment Received	\$39.20 CR	SWBT received this payment from Mr. Cupples' bank. SWBT credited Mr. Cupples' account, leaving a credit balance.
3/22/99				\$200.22	Mr. Cupples called in and indicated that his bank should not have paid SWBT \$239.42; thus, SWBT transferred \$239.42 to his bank. In doing so, SWBT charged his account \$239.42 bringing the balance back to \$200.22. In other word, it is as though no payment was received.
3/23/99				\$439.64	Mr. Cupples' bank notifies SWBT that there was insufficient funds in Mr. Cupples' account to cover the \$239.42 check that it gave SWBT. Thus, SWBT was required to pay the bank \$239.42. The end result was that SWBT gave Mr. Cupples \$239.42 that it ultimately had not received. Thus, SWBT charged Mr. Cupples' account \$239.42.

Date	Charges Incurred On Account Number (636)939-2446-627	Charges Incurred On Account Number (636)939-2446-058	Payment Received and/or Credit Given	Total Amount Due and Owing	Remarks
3/99	\$57.64		AT&T credit \$11.86	\$485.42	
4/99	\$144.50		\$144.50	\$485.42	
5/99	\$133.97		\$133.97	\$485.42	
6/99	\$133.30		\$133.30	\$485.42	
7/99	\$134.67			\$620.09	
8/99	\$137.36		\$137.36	\$620.09	
9/99	\$135.58		\$135.58	\$620.09	
10/99	\$132.08		\$132.08	\$620.09	
11/99	\$131.49		\$131.49	\$620.09	
12/99	\$136.78		\$136.78	\$620.09	
1/00	\$135.25		\$135.25	\$620.09	
2/00	\$138.53		\$138.53	\$620.09	
3/00	\$133.42		Not Due Until 4/10	\$753.51	
Media- tion			\$4.80 CR \$25.00 CR \$3.20 CR \$1.41	\$719.10	At the mediation, SWBT agreed to credit Mr. Cupples: (a) \$4.80 for late payment charges that appeared on his 9/9/99 phone bill; (b) \$25.00 for a returned check charge that appeared on his 9/9/99 phone bill; (c) \$3.20 for late payment charges that appeared on his 3/13/00 phone bill; and (d) \$1.41 for an internet carrier adjustment.

CERTIFICATE OF SERVICE

Copies of this document were served on the following parties by first-class,
postage prepaid, U.S. Mail on June 16, 2000.


Mimi B. MacDonald

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