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April 7, 2000



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

FILED²

APR 10 2000

Missouri Public
Service Commission

Re: Case No. TC-2000-596

Dear Judge Roberts:

Enclosed for filing with the Commission in the above-referenced case is an original and 14 copies of Southwestern Bell Telephone Company's Motion to Dismiss Pursuant to 4 CSR 240-2.070(6) for Failure to State Facts Upon Which Relief Can Be Granted.

Please stamp "Filed" on the extra copy and return the copy to me in the enclosed self-addressed, stamped envelope.

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

Very truly yours,

A handwritten signature in black ink, appearing to read "Mimi B. MacDonald".

Mimi B. MacDonald

Enclosure

cc: Attorneys of Record

BEFORE THE PUBLIC SERVICE COMMISSION OF THE
STATE OF MISSOURI

FILED²

APR 10 2000

Missouri Public
Service Commission

RAY AND JANET HEATON,)
)
Complainants,)
)
v.)
)
SOUTHWESTERN BELL, AT&T,)
AND CONNECT ONE INTERNET)
SERVICE,)
)
Respondents.)

Case No. TC-2000-596

**SOUTHWESTERN BELL TELEPHONE COMPANY'S
MOTION TO DISMISS PURSUANT TO 4 CSR 240-2.070(6)
FOR FAILURE TO STATE FACTS
UPON WHICH RELIEF CAN BE GRANTED**

Comes now Southwestern Bell Telephone Company ("SWBT") and, for its Motion to Dismiss Pursuant to 4 CSR 240-2.070(6) for Failure to State Facts Upon Which Relief Can Be Granted, states as follows:

1. On March 23, 2000, Complainants Ray and Janet Heaton ("Complainants"), filed a Complaint against SWBT, AT&T Communications of the Southwest, Inc. ("AT&T"), and Connect One Internet Service ("Connect One").

2. Complainants allege that Connect One agreed to provide Internet access and free local telephone access. However, on December 19, 1999, Complainants received a monthly billing statement from AT&T that reflected charges for long distance calls when Complainants logged on to the Internet.

3. Complainants allege that, on January 17, 1999, they received another bill from AT&T that again reflected charges for long distance calls when Complainants logged on to the Internet.

4. Complainants allege that Connect One subsequently explained to Complainants that they needed to change their Internet access number to a local number; specifically, 582-0516.

5. Although Complainants apparently believed that they changed their Internet access number to a local number (582-0516), it is apparent from the bills that Complainants received from AT&T (attached to the Complaint) that Complainants incorrectly changed their Internet access number to 1(573)582-0516. By adding the digit 1 plus the area code 573, Complainants made what would normally be considered a local call into a long distance call.

6. Complainants elected to have AT&T as their intraLATA toll carrier as well as their interLATA long distance carrier. If Complainants would have elected to have SWBT as their intraLATA toll carrier, Complainants' calls would not have gone through; instead, Complainants would have received SWBT's intercept message: "We are sorry, it is not necessary to dial a 1 or 0 when calling this number. Will you please hang up and try your call again." Apparently, AT&T does not provide such an intercept message when it receives intraLATA calls from its customers and, therefore, what would otherwise be considered local calls were routed by AT&T as though they were intraLATA toll calls.

7. SWBT did not provide intraLATA toll service to Complainants. SWBT's only involvement was to route 1+ calls to AT&T, Complainants' intraLATA toll carrier, in accordance with its tariffs.

8. Moreover, SWBT neither billed Complainants for their AT&T charges nor charged them for local long distance as alleged in their Complaint. As reflected in bills which are attached to Complainants' Complaint, the bills at issue were sent by AT&T, not SWBT.

9. SWBT takes no position on whether Complainants have stated a claim on which relief can be granted against AT&T. It is clear, however, that Complainants have not asserted that SWBT violated any statute, tariff or order of the Commission. Accordingly, Complainants have failed to state facts upon which relief can be granted. Wherefore, Southwestern Bell Telephone Company prays this Commission grants its Motion to Dismiss Pursuant to 4 CSR 240-2.070(6) for Failure to State Facts Upon Which Relief Can Be Granted, and grant any further or additional relief as the Commission deems just and proper.

Respectfully submitted,

SOUTHWESTERN BELL TELEPHONE COMPANY

By



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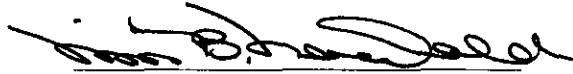
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CERTIFICATE OF SERVICE

I hereby certify that copies of this document were served on the following parties by first-class, postage prepaid, U.S. Mail on April 7, 2000.



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