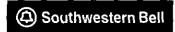


Southwestern Bell Telephone One Bell Center Room 3510 St. Louis, Missouri 63101 Phone 314 255-4094 Fax 314 247-0014



May 25, 2000

FILED

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Missouri Public Service Commission

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

Re: Case No. TC-2000-596

Dear Judge Roberts:

Enclosed for filing with the Commission in the above-referenced case is an original and eight copies of Southwestern Bell Telephone Company's Motion to Set Aside Order of Default Pursuant to 4 CSR 240-2.070(9).

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

Very truly yours,

Mimi B. MacDonald

Mimi B. Mac Donald by Jone

Enclosure

cc: Attorneys of Record

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

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RAY AND JANET HEATON,	)	Missouri Public S <b>ervice Commiss</b> ion
Complainants,	)	
v.	)	Case No. TC-2000-596
SOUTHWESTERN BELL, AT&T, AND CONNECT ONE INTERNET SERVICE,	)	
Respondents.	)	

## SOUTHWESTERN BELL TELEPHONE COMPANY'S MOTION TO SET ASIDE ORDER OF DEFAULT PURSUANT TO 4 CSR 240-2.070(9)

Comes now Southwestern Bell Telephone Company ("SWBT") and, for its Motion to Set Aside Order of Default Pursuant to 4 CSR-2.070(9), states as follows:

- 1. On March 23, 2000, Complaints Ray and Janet Heaton ("Complainants"), filed a Complaint against SWBT, AT&T of the Southwest, Inc. ("AT&T"), and Connect One Internet Service ("Connect One").
- 2. On April 10, 2000, SWBT filed its Motion to Dismiss Pursuant to 4 CSR 240-2.070(6) for Failure to State Facts Upon Which Relief Can Be Granted.
- 3. On May 18, 2000, the Missouri Public Service Commission ("Commission") overruled SWBT's Motion to Dismiss. The Commission also determined that SWBT had not filed a timely Answer to Complainants' Complaint and, therefore, found SWBT in default pursuant to 4 CSR 240-2.070(9).
- 4. Although SWBT entitled its April 10<sup>th</sup> pleading: "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", SWBT intended to entitle its Pleading: "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 And, In The Alternative, Southwestern Bell Telephone Company's Answer To Complainants' Complaint." SWBT intended to have one pleading for both its Motion to Dismiss and Answer. The failure to properly entitle this pleading to properly represent SWBT's intention was inadvertent.

5. Since the Commission overruled SWBT's Motion to Dismiss, SWBT has prepared a separate pleading entitled: "Southwestern Bell Telephone Company's Answer to Complainants Ray and Janet Heaton's Complaint." SWBT respectfully requests that the Commission grant SWBT's Motion to Set Aside The Order Of Default Pursuant to 4 CSR 240-2.070(9) and allow SWBT leave to file its Answer which has been contemporaneously filed with this Motion.

Wherefore, Southwestern Bell Telephone Company prays this Commission grants its Motion to Set Aside The Order Of Default Pursuant to 4 CSR-2.070(9), and grant any further or additional relief as the Commission deems just and proper.

Respectfully submitted,

SOUTHWESTERN BELL TELEPHONE COMPANY

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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 May 25, 2000.

Mimi B. MacDonald & Son-

DAN JOYCE MISSOURI PUBLIC SERVICE COMMISSION 301 W. HIGH STREET, SUITE 530 JEFFERSON CITY, MO 65101

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