

Mimi B. MacDonald
Attorney

Southwestern Bell Telephone
One Bell Center
Room 3510
St. Louis, Missouri 63101
Phone 314 235-4094
Fax 314 247-0014



May 25, 2000

FILED

MAY 25 2000

**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
by Jm-*

Mimi B. MacDonald

Enclosure

cc: Attorneys of Record

BEFORE THE PUBLIC SERVICE COMMISSION OF THE
STATE OF MISSOURI

FILED

MAY 25 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 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 10th 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

By Mimi B. MacDonald *by [signature]*
PAUL G. LANE #27011
LEO J. BUB #34326
ANTHONY K. CONROY #35199
MIMI B. MACDONALD #37606

Attorneys for Southwestern Bell Telephone Company
One Bell Center, Room 3510
St. Louis, Missouri 63101
(314) 235-4094 (Telephone)/(314) 247-0014 (Facsimile)
mm8072@momail.sbc.com

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
Mimi B. MacDonald *by dm*

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

MICHAEL F. DANDINO
OFFICE OF THE PUBLIC COUNSEL
301 W. HIGH STREET, SUITE 250
JEFFERSON CITY, MO 65101

RAY AND JANET HEATON
1317 LEXINGTON
MEXICO, MO 65265

KEVIN ZARLING
AT&T COMMUNICATIONS OF THE SOUTHWEST, INC.
919 CONGRESS AVENUE
AUSTIN, TX 78701