

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION
JEFFERSON CITY**

May 18, 2000

CASE NO: TC-2000-596

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Southwestern Bell Telephone Company
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St. Louis, MO 63101

Kevin Zarling
AT&T Communications of the Southwest,
Inc.
919 Congress, Suite 1500
Austin, TX 78701

Ray & Janet Heaton
1317 Lexington
Mexico, MO 65265

Enclosed find certified copy of an ORDER in the above-numbered case(s).

Sincerely,



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a Session of the Public Service
Commission held at its office
in Jefferson City on the 18th
day of May, 2000.

Ray and Janet Heaton,)	
)	
Complainants,)	
)	
vs.)	<u>Case No. TC-2000-596</u>
)	
Southwestern Bell Telephone Company and)	
AT&T Communications of the Southwest, Inc.,)	
)	
Respondents.)	

ORDER REGARDING MOTION TO DISMISS AS TO
SOUTHWESTERN BELL TELEPHONE COMPANY, FINDING DEFAULT,
AND SETTING A PREHEARING CONFERENCE

On March 23, 2000, Ray and Janet Heaton filed a complaint with the Missouri Public Service Commission against Southwestern Bell Telephone Company (SWBT), AT&T Communications of the Southwest, Inc. (AT&T), and Connect One Internet Service. In its Notice of Complaint, the Commission removed Connect One Internet Service as a respondent.

Complainants allege that calls to their internet service provider were improperly charged as long distance rather than local. Complainants do not clearly state whether these charges constitute improper conduct on the part of SWBT or AT&T.

On April 10, 2000, SWBT filed a motion to dismiss for failure to state facts upon which relief can be granted. SWBT points out that it

does not provide intraLATA service to Complainants, but simply routed 1+ calls to AT&T, Complainants' intraLATA toll provider. SWBT notes that it neither billed Complainants for the AT&T charges nor charged them for local long distance. SWBT states that Complainants have not asserted that SWBT violated any statute, tariff, or order of the Commission. Accordingly, concludes SWBT, Complainants have failed to state facts upon which relief can be granted as to SWBT.

Complainants did not respond to SWBT's April 10, 2000, pleading. AT&T did not timely file a response, but did file a late response on April 25, 2000. AT&T asserts that SWBT should have intercepted Complainants' calls instead of routing them to AT&T. AT&T denies that it acted improperly in treating Complainants' calls as toll calls and assessing toll charges. AT&T requests that the Commission require SWBT to take certain steps to resolve the complaint. AT&T states that it is willing to remove any toll charges that were applied to Complainants' calls that should have been treated as local.

AT&T's response raises sufficient questions about SWBT's involvement. Therefore, it would be inappropriate to dismiss SWBT as a party. Accordingly, SWBT's motion to dismiss will be denied.

Neither Respondent timely filed an answer to the Complaint, and both will be found in default pursuant to 4 CSR 240-2.070(9).

The Commission will schedule a prehearing conference for the purposes of discussing a settlement. From the statements made in the pleadings, it appears that such a conference may be productive. If

settlement discussions fail, the parties will be ordered to file a proposed procedural schedule.

IT IS THEREFORE ORDERED:

1. That the motion to dismiss the complaint against Southwestern Bell Telephone Company filed on April 10, 2000, is denied.

2. That Southwestern Bell Telephone Company and AT&T Communications of the Southwest, Inc. are in default pursuant to 4 CSR 240-2.070(9).

3. That a prehearing conference will be held on June 22, 2000, beginning at 10:00 a.m. The prehearing conference will be held on the fifth floor of the Harry S Truman State Office Building, 301 West High Street, Jefferson City, Missouri. Any person with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one of the following numbers: Consumer Services Hotline -- 1-800-392-4211, or TDD Hotline -- 1-800-829-7541.

4. That this order shall become effective on May 31, 2000.

BY THE COMMISSION

(S E A L)



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

Lumpe, Ch., Crumpton, and Drainer, CC., concur
Murray and Schemenauer, CC., absent

Mills, Deputy Chief Regulatory Law Judge

Att/Secy. Mills/Boyer
Date Circulated 5-16 TC-2000-596
CASE NO.
18 pa
Lumpe, Chair
CR
Crumpley, Commissioner
absent
Murray, Commissioner
absent
Schemenauer, Commissioner
absent
Drainer, Vice-Chair
absent
Agenda Date 5-30 5-18
Action taken: 3-045
Must Vote Not Later Than _____

STATE OF MISSOURI
OFFICE OF THE PUBLIC SERVICE COMMISSION

I have compared the preceding copy with the original on file in this office and

I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson City,
Missouri, this 18th day of May 2000.

Dale Hardy Roberts

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

